



# Instructions for Washington Estate & Transfer Tax Return

For decedents dying after December 31, 2001 (Form REV 85 0046)

Section references are to the Internal Revenue Code as it existed on 01/01/01 unless otherwise noted.  
Regulation references are to the United States Code of Federal Regulations (CFR) as it existed on 01/01/01.

## Table of Contents:

• General Instructions .....	1
A Purpose of Form.....	1
B Which Estates Must File .....	1
C Executor .....	2
D When To File .....	2
E Where To File.....	2
F Paying The Tax .....	2
G Signature and Verification .....	2
H Amending Form.....	2
I Supplemental Documents .....	2
J Rounding Off to Whole Dollars .....	2
K Interest and Penalties.....	2
L Obtaining Forms & Publications .....	2
• Specific Instructions .....	3
• Part 1 .....	3
• Part 2 .....	3
• Part 3 .....	5
• Part 4 .....	10
• Part 5 .....	10
• Part 6 .....	11
• Part 7 .....	11
• Part 8 .....	11
❖ Schedule A* .....	11
❖ Schedule A-1 * .....	11
❖ Schedule B .....	11
❖ Schedule C* .....	12
❖ Schedule D* .....	12
❖ Schedule E* .....	12
❖ Schedule F* .....	12
❖ Schedule G .....	12
❖ Schedule H .....	14
❖ Schedule I .....	15
❖ Schedule J .....	17
❖ Schedule K .....	17
❖ Schedule L .....	18
❖ Schedule M* .....	18
❖ Schedule O .....	19
❖ Schedule T .....	19
❖ Schedule U .....	22
❖ Continuation Schedule .....	24
❖ Index.....	25

\*For Schedules A, A-1, C, D, E, F, J, and M, see instructions in the Form REV 85 0046 itself.

## General Instructions

Federal Estate Tax law changes enacted after 01/01/01 do not apply to the reporting requirements of Washington's estate tax.

Section references are to the Internal Revenue Code as it existed on 01/01/01 unless otherwise noted.

Regulation references are to the United States Code of Federal Regulations (CFR) as it existed on 01/01/01.

## A. Purpose of Form

The executor of a decedent's estate uses Form REV 85 0046 to figure the estate tax imposed by Chapter 83.100 Revised Code of Washington. This tax is levied on the entire taxable estate, not just on the share received by a particular beneficiary.

## B. Which Estates Must File

For decedents dying after December 31, 2001, Form REV 85 0046 must be filed by the executor if:

- the estate of the decedent has property subject to the State of Washington estate and transfer tax, and
- whose gross estate, plus adjusted taxable gifts and specific exemption, is more than the filing threshold.

### Filing Thresholds:

Year	Filing Threshold
2002.....	\$700,000
2003.....	700,000
2004.....	850,000
2005.....	950,000
2006.....	1,000,000
2007.....	1,000,000

To determine whether you must file a return for the estate, add:

Item	\$ Amt.
1. The adjusted taxable gifts (under section 2001(b)) made by the decedent after December 31, 1976;	
2. The total specific exemption allowed under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) for gifts made by the decedent after September 8, 1976; and	
3. The decedent's gross estate valued at the date of death.	
4. Total	

For dates of death after December 31, 2001, the executor must file Form REV 85 0046 for any estate in which the sum of these items equals or exceeds the filing threshold amount for that year.

## Gross Estate

The gross estate includes all property in which the decedent had an interest (including real property outside the United States). It also includes:

- Certain transfers made during the decedent's life without an adequate and full consideration in money or money's worth;
- Annuities;
- The includible portion of joint estates with right of survivorship (see instructions on the back of Schedule E);
- The includible portion of tenancies by the entirety (see instructions on the back of Schedule E);
- Certain life insurance proceeds (even though payable to beneficiaries other than the estate) (see instructions on the back of Schedule D);
- Property over which the decedent possessed a general power of appointment;
- Dower or curtesy (or statutory estate) of the surviving spouse;
- Community property to the extent of the decedent's interest as defined by applicable law.

For more specific information, see the instructions for Schedules A through I.

## U. S. Citizens or Residents

File Form REV 85 0046 for estates of decedents who were either U.S. citizens or U.S. residents at the time of death. For estate tax purposes, a resident of the U.S. is someone who had a domicile in the United States at the time of death. A person acquires a domicile by living in a place for even a brief period of time, as long as the person had no intention of moving from that place.

## Nonresident Noncitizens

File Form Rev 85 0047 NA, Washington Estate and Transfer Tax Return, Estate of nonresident not a citizen of the United States, for the estates of nonresident alien decedents (decedents who were neither U.S. citizens nor residents at the time of death).

## Residents of U. S. Possessions

All references to citizens of the United States are subject to the provisions of

sections 2208 and 2209, relating to decedents who were U.S. citizens and residents of a U.S. possession on the date of death. If such a decedent became a U.S. citizen only because of his or her connection with a possession, then the decedent is considered a nonresident alien decedent for estate tax purposes, and you should file a Form Rev 85 0047 NA. If such a decedent became a U.S. citizen wholly independently of his or her connection with a possession, then the decedent is considered a U.S. citizen for estate tax purposes, and you should file Form REV 85 0046.

### C. Executor

The term "executor" means the executor, personal representative, or administrator of the decedent's estate. If none of these is appointed, qualified, or acting in the United States, every person in actual or constructive possession of any property of the decedent is considered an executor and must file a return.

### D. When To File

You must file Form REV 85 0046 to report estate and/or generation-skipping transfer tax within 9 months after the date of the decedent's death unless you receive an extension of time to file. Use Form REV 85 0048 Application for Extension of Time To File a Return and/or Pay Washington Estate Taxes, to apply for an extension of time to file. If you received an extension, attach a copy of it to Form REV 85 0046.

### E. Where To File

Please send the return to the Department of Revenue.

#### Mail Address:

Department of Revenue  
Estate Tax Section  
PO Box 47488  
Olympia WA 98504-7488

#### Private Carrier:

Department of Revenue  
Estate Tax Section  
2735 NW Harrison, Suite 400  
Olympia WA 98502

### F. Paying the Tax

The estate and GST taxes are due within 9 months after the date of the decedent's death unless an extension of time for payment has been granted, or unless you have properly elected under section 6166 to pay in installments, or under section 6163 to postpone the part of the tax attributable to a reversionary or remainder interest. These elections are made by checking lines 3 and 4 (respectively) of

Part 3, Elections by the Executor, and attaching the required statements.

If the tax paid with the return is different from the balance due as figured on the return, explain the difference in an attached statement. If you have made prior payments to Washington, attach a statement to Form REV 85 0046 including these facts. If an extension of time to pay has been granted, attach a copy of the approved Form REV 85 0048 to Form REV 85 0046.

### Paying by Check

Make the check payable to the Washington State Department of Revenue. Please write the decedent's name, Form REV 85 0046, and date of death on the check to assist us in posting it to the proper account.

### G. Signature and Verification

**If there is more than one executor, all listed executors must verify and sign the return.** All executors are responsible for the return as filed and are liable for penalties provided for erroneous or false returns.

If two or more persons are liable for filing the return, they should all join together in filing one complete return. However, if they are unable to join in making one complete return, each is required to file a return disclosing all the information the person has in the case, including the name of every person holding an interest in the property and a full description of the property. If the appointed, qualified, and acting executor is unable to make a complete return, then every person holding an interest in the property must, on notice from the Department of Revenue, make a return regarding that interest.

The executor who files the return must, in every case, sign the declaration on page 1 under penalties of perjury.

### H. Amending Form REV 85 0046

If you find that you must change something on a return that has already been filed, you should file another Form REV 85 0046 and check amended return box in Part I, Line 12.

### I. Supplemental Documents

**You must attach the death certificate to the return.**

If the decedent was a citizen or resident and died testate, attach a certified copy of the death certificate to the return. Other supplemental documents may be required as explained below. Examples include Forms 712, 709, 709-A, and 706-CE, trust

and power of appointment instruments, and certification of payments made to other states of death taxes. If you do not file these documents with the return, the processing of the return will be delayed.

If the decedent was a U.S. citizen but not a resident of the United States, you must attach the following documents to the return:

1. A copy of the inventory of property and the schedule of liabilities, claims against the estate, and expenses of administration filed with the foreign court of probate jurisdiction, certified by a proper official of the court;
2. A copy of the return filed under the foreign inheritance, estate, legacy, succession tax, or other death tax act, certified by a proper official of the foreign tax department, if the estate is subject to such a foreign tax; and
3. If the decedent died testate, a certified copy of the will.

### J. Rounding Off to Whole Dollars

You may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

### K. Interest and Penalties

#### Late Filing:

Executors filing late (after the due date, including extensions) should attach an explanation to the return. No penalty is assessed on voluntary payments per RCW 83.100.070 (Chapter 105, Laws of 2000).

#### Late Payment:

Payment of the Washington Estate and Transfer Tax is due nine months from the date of death. If payment is not received, interest accrues at the rate established by RCW 83.100.070 (1) on the unpaid tax. An extension of time for payment does not grant relief from the accrual of interest.

### L. Obtaining Forms and Publications to File or Use

**Personal computer:** Access the Department of Revenue's Internet web site at [www.dor.wa.gov](http://www.dor.wa.gov) to do the following:

- Download forms, instructions, and publications.
- Search publications on-line by topic or keyword.

**By phone:** You can order forms and publications by calling (360) 753-5545.

## Forms and Publications to file or use.

- **Forms:**
  - Washington State Estate & Transfer Tax Return, Form REV 85 0046;
  - Washington State Nonresident Not a Citizen Estate & Transfer Tax Return, Form REV 85 0047;
  - Application for Extension of Time to File a Washington Estate & Transfer Tax Return and/or Pay Tax, Form REV 85 0048
- **Publications:** Washington State laws and rules that pertain to the estate tax, and pertinent federal codes and regulations as of 01/01/01.

## Specific Instructions

- You must file the first three pages of Form REV 85 0046 whenever a tax return is required.
- If you are not required to file federal Form 706, you must attach all required schedules to the Form REV 85 0046.
- If you are required to file federal Form 706, attach a copy of it and all required schedules.

IF...	THEN...
You enter zero on any item of the Recapitulation,	You need not file the schedule (except for Schedule F) referred to on that item.
You claim an exclusion on item 11,	Complete and attach Schedule U.
You claim any deductions on items 13 through 23 of the Recapitulation,	Complete and attach the appropriate schedules to support the deductions.
There is not enough space on a schedule to list all of the items,	Attach a continuation schedule (or sheets of the same size to the back of the schedule; (the schedule is on the last page of Form REV 85 0046). Photocopy the blank schedule before completing it, if you will need more than one copy.

- Form REV 85 0046 has 38 numbered pages.
- When you complete the return, staple all the required pages together in the proper order.
- Number the items you list on each schedule, beginning with the number 1 each time.
- Total the items listed on the schedule and its attachments, Continuation Schedules, etc.
- Enter the total of all attachments, Continuation Schedules, etc., at the bottom of the printed schedule, but do not carry the totals forward from one schedule to the next.
- Enter the total, or totals, for each schedule on the Recapitulation, page 3, Form REV 85 0046.
- **Do not** complete the "Alternate valuation date" or "Alternate value" columns of any schedule unless you elected alternate valuation on line 1 of Part 3, Elections by the Executor.

## Instructions for Part 1. Decedent and Executor (Page 1 of Form REV 85 0046)

### Line 8 – Name Person Required to File

If there is more than one person required to file, enter the name of the person to be contacted by the Department of Revenue. List the other peoples names and addresses on an attached sheet.

## Instructions for Part 2. (Page 1 of Form REV 85 0046)

In general, the Washington Estate Tax is figured by subtracting \$60,000 from the Taxable Estate and applying the rates from Table B, page 5. You must complete the Tax Computation.

### Line 1: Total gross estate less exclusion

If you elected alternate valuation on line 1, Part 3, Elections by the Executor, enter the amount you entered in the "Alternate value" column of item 12 of Part 5, Recapitulation. Otherwise, enter the amount from the "Value at date of death" column.

### Line 4 (Adjusted Taxable Gifts) and Line 9 (Total Gift Tax Payable)

Three worksheets are provided to help you compute the entries for these lines. Please keep them for your records.

## Worksheet TG-Taxable Gifts Reconciliation:

This worksheet allows you to reconcile the decedent's lifetime taxable gifts to compute totals that will be used for the Line 4 Worksheet and the Line 9 Worksheet.

You must get all of the decedent's gift tax returns (Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return) before you complete Worksheet TG. The amounts you will enter on Worksheet TG can usually be derived from these returns as filed. However, if any of the returns were audited by the IRS, you should use the amounts that were finally determined as a result of the audits.

Worksheet TG – Taxable Gifts Reconciliation (To be used for line 4 worksheet and line 9 worksheet)	
<b>Note:</b> For the definition of a taxable gift see section 2503. Ignore the old specific exemption. Follow Form 709. That is, include only the decedent's one-half of split gifts, whether the gifts were made by the decedent or the decedent's spouse. In addition to gifts reported on Form 709, you must include any taxable gifts in excess of the annual exclusion that were not reported on Form 709.	
Gifts made after 1976	
1a. Calendar year or calendar quarter	1a.
1b. Total taxable gifts for period	1b.
1c. Total for gifts made after 1976	1c.
1d. Taxable amount included in 1c for gifts included in the gross estate	1d.
1e. Taxable amount included in 1c for gifts that qualify for "special treatment of split gifts" described in Note above	1e.
1f. Gift tax paid by decedent on gifts in 1e.	1f.
1g. Gift tax paid by decedent's spouse on gifts in 2d.	1g.

For tax years beginning **after** 1998 the annual \$10,000 exclusion for gifts is indexed for inflation. **See** Rev. Proc. 98-61, 1998-52 I.R.B. 23.

**Special treatment of split gifts.** These special rules apply only if:

1. The decedent's spouse predeceased the decedent;
2. The decedent's spouse made gifts that were 'split' with the decedent under the rules of section 2513;
3. The decedent was the "consenting spouse" for those split gifts, as that term is used on Form 709; and
4. The split gifts were included in the decedent's spouse's gross estate under section 2035.

If all four conditions above are met, *do not include* these gifts on line 4 of the Tax Computation and *do not include* the gift taxes payable on these gifts on line 9 of the Tax Computation. These adjustments are incorporated into the worksheets.

Line 4 Worksheet – Adjusted Taxable Gifts Made After 1976 (use information from Worksheet TG)	
1. Taxable gifts. Enter amount from 1c.	1.
2. Taxable gifts reportable on Schedule G. Enter amount from 1d.	2.
3. Taxable gifts that qualify for "special treatment". Enter amount from 1e.	3.
4. Adjusted taxable gifts. Subtract lines 2 and 3 from line 1. Enter here and on line 4 of the Tax Computation of Form REV 85 0046.	4.

Line 9 Worksheet – Gift Tax on Gifts Made After 1976	
1. Calendar year or quarter for gifts made after June 6, 1932, and before 1977.	1.
2. Total Taxable gifts for period.	2.
3. Total taxable gifts for prior periods (from Form 709, tax computation, line 2).	3.
4. Taxable gifts for this period (from Form 709, tax computation, line 1, see below).	4.
5. Tax payable using Table A (on page 12), (see below).	5.
6. Unused unified credit (applicable credit amount) for this period. (see below).	6.
7. Tax payable for this period (subtract line 2 from line 5).	7.
8. Total gift taxes payable on gifts made after 1976 (combine the amounts on line 7)	8.
9. Gift taxes paid by the decedent on gifts that qualify for "special treatment." Enter amount from line 1e, Worksheet TG, on page 3.	9.
10. Subtract line 9 from line 8	10.
11. Gift tax paid by decedent's spouse on split gifts included in Schedule G. Enter the amount from line 1g Worksheet TG, on page 3.	11.
12. Add lines 10 and 11. Enter here and on line 9 of the Tax Computation of Form REV 85 0046.	12.

## Line 6 – Tentative Federal Estate Tax

The federal tax amount needs to be calculated because the state death tax credit can not be more than this amount.

**Table A – Unified Rate Schedule**

A	B	C	D
Taxable Amount Over	Taxable Amount Not Over	Tax on Amt. in Column A	Rate of Tax on Excess Over Amt. in Column A (Percent)
0	\$10,000	0	18
\$10,000	20,000	\$1,800	20
20,000	40,000	3,800	22
40,000	60,000	8,200	24
60,000	80,000	13,000	26
80,000	100,000	18,200	28
100,000	150,000	23,800	30
150,000	250,000	38,800	32
250,000	500,000	70,800	34
500,000	750,000	155,800	37
750,000	1,000,000	248,300	39
1,000,000	1,250,000	345,800	41
1,250,000	1,500,000	448,300	43
1,500,000	2,000,000	555,800	45
2,000,000	2,500,000	780,800	49
2,500,000	3,000,000	1,025,800	53
3,000,000	-----	1,290,800	55

## Line 7

Lines 7a-c are used to calculate the phaseout of the graduated rates. The phaseout applies only to estates in which the amount the tentative tax is computed on exceeds \$10 million.

## Line 11 – Unified Credit (Applicable Credit Amount)

The Taxpayer Relief Act of 1997 replaced the *unified credit amount* with an *applicable credit amount*, effective for the estates of decedents dying, and gifts made, after December 31, 1997. The applicable credit amount will increase as shown in the table below until 2006, when \$1 million will be exempted from transfer tax. The amount of the credit cannot exceed the amount of estate tax imposed.

The unified credit and exemption equivalent (*applicable exclusion amount*) for 2002 and later are as follows:

**Applicable Credit Amounts:**

Year	Applicable Credit Amount	Applicable Exclusion Amount
2002 .....	\$229,800	\$700,000
2003 .....	229,800	700,000
2004 .....	287,300	850,000
2005 .....	326,300	950,000
2006 .....	345,800	1,000,000
2007 .....	345,800	1,000,000

Important: *If the estate is claiming a qualified family-owned business interest deduction, see Coordination with unified credit on page 22 before completing line 11.*

**Line 12 – Adjustment to Unified Credit (Applicable Credit Amount)**

If the decedent made gifts (including gifts made by the decedent's spouse and treated as made by the decedent by reason of gift splitting) after September 8, 1976, and before January 1, 1977, for which the decedent claimed a specific exemption, the unified credit (applicable credit amount) on this estate tax return must be reduced. The reduction is figured by entering 20% of the specific exemption claimed for these gifts.

**Note:** *(The specific exemption was allowed by section 2521 for gifts made before January 1, 1977.)*

If the decedent did not make any gifts between September 8, 1976, and January 1, 1977, or if the decedent made gifts during that period but did not claim the specific exemption, enter zero.

**Line 15 – State Death Taxes Due**

If you make a section 6166 election to pay the Washington estate tax in installments, please contact the department for further instructions.

The state estate tax may not be more than the amount figured by using **Table B**, below, based on the value of the adjusted taxable estate. The adjusted taxable estate is the amount of the taxable estate (line 3 of the Tax Computation) reduced by \$60,000.

**Table B - Computation of Maximum Credit for State Death Taxes**

(Based on Adjusted Taxable Estate (Line 3 of Form 85 0046) less \$60,000)			
(1) Adjusted taxable estate equal to or more than-	(2) Adjusted taxable estate less than-	(3) Credit on amount in column (1)	(4) Rate of credit on excess over amount in col. (1) (Percent)
0	\$40,000	0	None
\$40,000	90,000	0	0.8
90,000	140,000	\$400	1.6
140,000	240,000	1,200	2.4
240,000	440,000	3,600	3.2
440,000	640,000	10,000	4.0
640,000	840,000	18,000	4.8
840,000	1,040,000	27,600	5.6
1,040,000	1,540,000	38,800	6.4
1,540,000	2,040,000	70,800	7.2
2,040,000	2,540,000	106,800	8.0
2,540,000	3,040,000	146,800	8.8
3,040,000	3,540,000	190,800	9.6
3,540,000	4,040,000	238,800	10.4
4,040,000	5,040,000	290,800	11.2
5,040,000	6,040,000	402,800	12.0
6,040,000	7,040,000	522,800	12.8
7,040,000	8,040,000	650,800	13.6
8,040,000	9,040,000	786,800	14.4
9,040,000	10,040,000	930,800	15.2
10,040,000	-----	1,082,800	16.0

If an estate has assets that are taxable in another state, see Part 6 or Part 7 for directions on apportionment.

Proof of tax paid to another state should be attached to the Washington REV Form 85 0046.

**Instructions for Part 3.  
Elections by the Executor (Page 2 of Form REV 85 0046)**
**Line 1-Alternate Valuation**

Unless you elect at the time you file the return to adopt alternate valuation as authorized by section 2032, you must value all property included in the gross estate on the date of the decedent's death. Alternate valuation cannot be applied to only a part of the property.

You may elect special use valuation (line 2) in addition to alternate valuation.

You may not elect alternate valuation unless the election will decrease both the value of the gross estate and the total net estate and GST taxes due after application of all allowable credits.

You elect alternate valuation by checking "Yes" on line 1 and filing Form REV 85 0046. Once made, the election may not be revoked. The election may be made on a late filed Form REV 85 0046

provided it is not filed later than 1 year after the due date (including extensions).

If you elect alternate valuation, value the property that is included in the gross estate as of the applicable dates as follows:

- Any property distributed, sold, exchanged, or otherwise disposed of or separated or passed from the gross estate by any method within 6 months after the decedent's death is valued on the date of distribution, sale, exchange, or other disposition, whichever occurs first. Value this property on the date it ceases to form a part of the gross estate; i.e., on the date the title passes as the result of its sale, exchange, or other disposition.
- Any property not distributed, sold, exchanged, or otherwise disposed of within the 6-month period is valued on the date 6 months after the date of the decedent's death.
- Any property, interest, or estate that is "affected by mere lapse of time" is valued as of the date of decedent's death or on the date of its distribution, sale, exchange, or other disposition, whichever occurs first. However, you may change the date of death value to account for any change in value that is not due to a "mere lapse of time" on the date of its distribution, sale, exchange, or other disposition.

The property included in the alternate valuation and valued as of 6 months after the date of the decedent's death, or as of some intermediate date (as described above) is the property included in the gross estate on the date of the decedent's death. Therefore, you must first determine what property constituted the gross estate at the decedent's death.

**Interest.** Interest accrued to the date of the decedent's death on bonds, notes, and other interest-bearing obligations is property of the gross estate on the date of death and is included in the alternate valuation.

**Rent.** Rent accrued to the date of the decedent's death on leased real or personal property is property of the gross estate on the date of death and is included in the alternate valuation.

**Dividends.** Outstanding dividends that were declared to stockholders of record on or before the date of the decedent's death are considered property of the gross estate on the date of death, and are included in the alternate valuation. Ordinary dividends declared to

stockholders of record after the date of the decedent's death are not property of the gross estate on the date of death and are not included in the alternate valuation. However, if dividends are declared to stockholders of record after the date of the decedent's death so that the shares of stock at the later valuation date do not reasonably represent the same property at the date of the decedent's death, include those dividends (except dividends paid from earnings of the corporation after the date of the decedent's death) in the alternate valuation.

As part of each Schedule A through I, you must show:

1. what property is included in the gross estate on the date of the decedent's death;
  2. what property was distributed, sold, exchanged, or otherwise disposed of within the 6-month period after the decedent's death, and the dates of these distributions, etc.
- (These two items should be entered in the "Description" column of each schedule. Briefly explain the status or disposition governing the alternate valuation date, such as: 'Not disposed of within 6 months following death,' 'Distributed,' 'Sold,' 'Bond paid on maturity,' etc. In this same column, describe each item of principal and includible income);
3. the date of death value, entered in the appropriate value column with items of principal and includible income shown separately; and
  4. the alternate value, entered in the appropriate value column with items of principal and includible income shown separately. (In the case of any interest or estate, the value of which is affected by lapse of time, such as patents, leaseholds, estates for the life of another, or remainder interests, the value shown under the heading 'Alternate value' must be the adjusted value; i.e., the value as of the date of death with an adjustment reflecting any difference in its value as of the later date not due to lapse of time.)

Distributions, sales, exchanges, and other dispositions of the property within the 6-month period after the decedent's death must be supported by evidence. If the court issued an order of distribution during that period, you must submit a certified copy of the order as part of the evidence. The Department of Revenue may require you to submit additional evidence if necessary.

If the alternate valuation method is used, the values of life estates, remainders, and similar interests are figured using the age

of the recipient on the date of the decedent's death and the value of the property on the alternate valuation date.

## Line 2 – Special Use Valuation of Section 2032A

In **general**. Under section 2032A, you may elect to value certain farm and closely held business real property at its farm or business use value rather than its fair market value. You may elect both special use valuation and alternate valuation.

To elect this valuation you must check "Yes" to line 2 and complete and attach Schedule A-1 and its required additional statements. You must file **Schedule A-1 and its required attachments with Form REV 85 0046 for this election to be valid**. You may make the election on a late filed return so long as it is the first return filed.

The total value of the property valued under section 2032A may not be decreased from FMV by more than \$760,000 for decedents dying in 1999 (subject to inflation in later years).

Real property may qualify for the section 2032A election if:

1. The decedent was a U.S. citizen or resident at the time of death;
2. The real property is located in the State of Washington;
3. At the decedent's death the real property was used by the decedent or a family member for farming or in a trade or business, or was rented for such use by either the surviving spouse or a lineal descendant of the decedent to a family member on a net cash basis;
4. The real property was acquired from or passed from the decedent to a qualified heir of the decedent;
5. The real property was owned and used in a qualified manner by the decedent or a member of the decedent's family during 5 of the 8 years before the decedent's death;
6. There was material participation by the decedent or a member of the decedent's family during 5 of the 8 years before the decedent's death; and
7. The qualified property meets the following percentage requirements:
  - a. At least 50% of the adjusted value of the gross estate must consist of the adjusted value of real or personal property that was being used as a farm or in a

closely held business and that was acquired from, or passed from, the decedent to a qualified heir of the decedent, and

- b. At least 25% of the adjusted value of the gross estate must consist of the adjusted value of qualified farm or closely held business real property.

For this purpose, adjusted value is the value of property determined without regard to its special-use value. The value is reduced for unpaid mortgages on the property or any indebtedness against the property, if the full value of the decedent's interest in the property (not reduced by such mortgage or indebtedness) is included in the value of the gross estate. The adjusted value of the qualified real and personal property used in different businesses may be combined to meet the 50% and 25% requirements.

## Qualified Real Property

**Qualified use.** The term qualified use means the use of the property as a farm for farming purposes or the use of property in a trade or business other than farming. Trade or business applies only to the active conduct of a business. It does not apply to passive investment activities or the mere passive rental of property to a person other than a member of the decedent's family. Also, no trade or business is present in the case of activities not engaged in for profit.

**Ownership.** To qualify as special-use property, the decedent or a member of the decedent's family must have owned and used the property in a qualified use for 5 of the last 8 years before the decedent's death. Ownership may be direct or indirect through a corporation, a partnership, or a trust.

If the ownership is indirect, the business must qualify as a closely held business under section 6166. The ownership, when combined with periods of direct ownership, must meet the requirements of section 6166 on the date of the decedent's death and for a period of time that equals at least 5 of the 8 years preceding death.

If the property was leased by the decedent to a closely held business, it qualifies as long as the business entity to which it was rented was a closely held business with respect to the decedent on the date of the decedent's death and for sufficient time to meet the "5 in 8 years" test explained above.

**Structures and other real property improvements.** Qualified real property includes residential buildings and other

structures and real property improvements regularly occupied or used by the owner or lessee of real property (or by the employees of the owner or lessee) to operate the farm or business. A farm residence which the decedent had occupied is considered to have been occupied for the purpose of operating the farm even when a family member and not the decedent was the person materially participating in the operation of the farm.

Qualified real property also includes roads, buildings, and other structures and improvements functionally related to the qualified use.

Elements of value such as mineral rights that are not related to the farm or business use are not eligible for special-use valuation.

#### **Property acquired from the decedent.**

Property is considered to have been acquired from or to have passed from the decedent if one of the following applies:

- The property is considered to have been acquired from or to have passed from the decedent under section 1014(b) (relating to basis of property acquired from a decedent).
- The property is acquired by any person from the estate.
- The property is acquired by any person from a trust, to the extent the property is includible in the gross estate.

**Qualified heir.** A person is a qualified heir of property if he or she is a member of the decedent's family and acquired or received the property from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his or her family, that person will then be treated as the qualified heir with respect to that interest.

The term **member of the family** includes only:

1. An ancestor (parent, grandparent, etc.) of the individual;
2. The spouse of the individual;
3. The lineal descendant (child, stepchild, grandchild, etc.) of the individual, the individual's spouse, or a parent of the individual; or
4. The spouse, widow, or widower of any lineal descendant described above. A legally adopted child of an individual is treated as a child of that individual by blood.

#### **Material Participation**

To elect special-use valuation, either the decedent or a member of his or her family

must have materially participated in the operation of the farm or other business for at least 5 of the 8 years ending on the date of the decedent's death. The existence of material participation is a factual determination, but passively collecting rents, salaries, draws, dividends, or other income from the farm or other business does not constitute material participation. Neither does merely advancing capital and reviewing a crop plan and financial reports each season or business year.

In determining whether the required participation has occurred, disregard brief periods (e.g., 30 days or less) during which there was no material participation, as long as such periods were both preceded and followed by substantial periods (more than 120 days) during which there was uninterrupted material participation.

**Retirement or disability.** If, on the date of death, the time period for material participation could not be met because the decedent had retired or was disabled, a substitute period may apply. The decedent must have retired on Social Security or been disabled for a continuous period ending with death. A person is disabled for this purpose if he or she was mentally or physically unable to materially participate in the operation of the farm or other business.

The substitute time period for material participation for these decedents is a period totaling at least 5 years out of the 8-year period that ended on the earlier of (1) the date the decedent began receiving social security benefits, or (2) the date the decedent became disabled.

**Surviving spouse.** A surviving spouse who received qualified real property from the predeceased spouse is considered to have materially participated if he or she was engaged in the active management of the farm or other business. If the surviving spouse died within 8 years of the first spouse's death, you may add the period of material participation of the predeceased spouse to the period of active management by the surviving spouse to determine if the surviving spouse's estate qualifies for special-use valuation. To qualify for this, the property must have been eligible for special-use valuation in the predeceased spouse's estate, though it does not have to have been elected by that estate.

For additional details regarding material participation, see Regulations section 20.2032A-3(e).

#### **Valuation Methods**

The primary method of valuing special-use value property that is used for farming purposes is the annual gross cash rental method. If comparable gross cash rentals are not available, you can substitute comparable average annual net share rentals. If neither of these are available, or if you so elect, you can use the method for valuing real property in a closely held business.

#### **Average annual gross cash rental.**

Generally, the special-use value of property that is used for farming purposes is determined as follows:

1. Subtract the average annual state and local real estate taxes on actual tracts of comparable real property from the average annual gross cash rental for that same comparable property, and
2. Divide the result in 1 by the average annual effective interest rate charged for all new Federal Land Bank loans.

The computation of each average annual amount is based on the 5 most recent calendar years ending before the date of the decedent's death.

**Gross cash rental.** Generally, gross cash rental is the total amount of cash received in a calendar year for the use of actual tracts of comparable farm real property in the same locality as the property being specially valued. You may not use appraisals or other statements regarding rental value or area wide averages of rentals. You may not use rents that are paid wholly or partly in kind, and the amount of rent may not be based on production. The rental must have resulted from an arm's-length transaction. Also, the amount of rent is not reduced by the amount of any expenses or liabilities associated with the farm operation or the lease.

**Comparable property.** Comparable property must be situated in the same locality as the specially valued property as determined by generally accepted real property valuation rules. The determination of comparability is based on all the facts and circumstances. It is often necessary to value land in segments where there are different uses or land characteristics included in the specially valued land. The following list contains some of the factors considered in determining comparability.

- Similarity of soil.
- Whether the crops grown would deplete the soil in a similar manner.

- Types of soil conservation techniques that have been practiced on the 2 properties.
- Whether the 2 properties are subject to flooding.
- Slope of the land.
- For livestock operations, the carrying capacity of the land.
- For timbered land, whether the timber is comparable.
- Whether the property as a whole is unified or segmented; if segmented, the availability of the means necessary for movement among the different sections.
- Number, types, and conditions of all buildings and other fixed improvements located on the properties and their location as it affects efficient management, use, and value of the property.
- Availability and type of transportation facilities in terms of costs and of proximity of the properties to local markets.

You must specifically identify on the return the property being used as comparable property. Use the type of descriptions used to list real property on Schedule A.

**Effective interest rate.** Contact the Washington State Department of Revenue for the annual interest rate.

**Net share rental.** You may use average annual net share rental from comparable land only if there is no comparable land from which average annual gross cash rental can be determined. Net share rental is the difference between the gross value of produce received by the lessor from the comparable land and the cash operating expenses (other than real estate taxes) of growing the produce that, under the lease, are paid by the lessor. The production of the produce must be the business purpose of the farming operation. For this purpose, produce includes livestock.

The gross value of the produce is generally the gross amount received if the produce was disposed of in an arm's-length transaction within the period established by the Department of Agriculture for its price support program. Otherwise, the value is the weighted average price for which the produce sold on the closest national or regional commodities market. The value is figured for the date or dates on which the lessor received (or constructively received) the produce.

**Valuing a real property interest in closely held business.** Use this method to determine the special-use valuation for qualifying real property used in a trade or

business other than farming. You may also use this method for qualifying farm property if there is no comparable land or if you elect to use it. Under this method, the following factors are considered:

- The capitalization of income that the property can be expected to yield for farming or for closely held business purposes over a reasonable period of time with prudent management and traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors.
- The capitalization of the fair rental value of the land for farming or for closely held business purposes.
- The assessed land values in a state that provides a differential or use value assessment law for farmland or closely held business.
- Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price.
- Any other factor that fairly values the farm or closely held business value of the property.

### Making the Election

Include the words "section 2032A valuation" in the "Description" column of any Form REV 85 0046 schedule if section 2032A property is included in the decedent's gross estate.

An election under section 2032A need not include all the property in an estate that is eligible for special use valuation, but sufficient property to satisfy the threshold requirements of section 2032A(b)(1)(B) must be specially valued under the election.

If joint or undivided interests (e.g., interests as joint tenants or tenants in common) in the same property are received from a decedent by qualified heirs, an election with respect to one heir's joint or undivided interest need not include any other heir's interest in the same property if the electing heir's interest plus other property to be specially valued satisfies the requirements of section 2032A(b)(1)(B).

If successive interests (e.g., life estates and remainder interests) are created by a decedent in otherwise qualified property, an election under section 2032A is available only with respect to that property (or part) in which qualified heirs of the decedent receive all of the

successive interests, and such an election must include the interests of all of those heirs.

For example, if a surviving spouse receives a life estate in otherwise qualified property and the spouse's brother receives a remainder interest in fee, no part of the property may be valued pursuant to an election under section 2032A.

Where successive interests in specially valued property are created, remainder interests are treated as being received by qualified heirs only if the remainder interests are not contingent on surviving a nonfamily member or are not subject to divestment in favor of a nonfamily member.

### Protective Election

You may make a protective election to specially value qualified real property. Under this election, whether or not you may ultimately use special use valuation depends upon values as finally determined (or agreed to following examination of the return) meeting the requirements of section 2032A.

To make a protective election, check "Yes" to line 2 and complete Schedule A-1 according to its instructions for "Protective Election."

If you make a protective election, you should complete this Form REV 85 0046 by valuing all property at its fair market value. Do not use special use valuation. Usually, this will result in higher estate and GST tax liabilities than will be ultimately determined if special use valuation is allowed. **The protective election does not extend the time to pay the taxes shown on the return.** If you wish to extend the time to pay the taxes, you should file Form REV 85 0048 in adequate time *before* the return due date.

If it is found that the estate qualifies for special use valuation based on the values as finally determined (or agreed to following examination of the return), you must file an amended Form REV 85 0046 (with a complete section 2032A election) within 60 days after the date of this determination. Complete the amended return using special use values under the rules of section 2032A, and complete Schedule A-1 and attach all of the required statements.

### Additional information

For definitions and additional information, see section 2032A and the related regulations.



### Line 3 – Installment Payments

If the gross estate includes an interest in a closely held business, you may be able to elect to pay part of the estate tax in installments.

The maximum amount that can be paid in installments is that part of the estate tax that is attributable to the closely held business. In general, that amount is the amount of tax that bears the same ratio to the total estate tax that the value of the closely held business included in the gross estate bears to the total gross estate.

**Percentage requirements.** To qualify for installment payments, the value of the interest in the closely held business that is included in the gross estate must be more than 35% of the adjusted gross estate (the gross estate less expenses, indebtedness, taxes, and losses).

Interests in two or more closely held businesses are treated as an interest in a single business if at least 20% of the total value of each business is included in the gross estate. For this purpose, include any interest held by the surviving spouse that represents the surviving spouse's interest in a business held jointly with the decedent as community property or as joint tenants, tenants by the entirety, or tenants in common.

**Value.** The value used for meeting the percentage requirements is the same value used for determining the gross estate. Therefore, if the estate is valued under alternate valuation or special use valuation, you must use those values to meet the percentage requirements.

**Transfers before death.** Generally, gifts made before death are not included in the gross estate. However, the estate must meet the 35% requirement by both including and excluding in the gross estate any gifts made by the decedent within 3 years of death.

**Passive assets.** In determining the value of a closely held business and whether the 35% requirement is met, do not include the value of any passive assets held by the business. A **passive asset** is any asset not used in carrying on a trade or business. Stock in another corporation is a passive asset unless the stock is treated as held by the decedent because of the election to treat holding company stock as business company stock, as discussed below.

If a corporation owns at least 20% in value of the voting stock of another corporation, or the other corporation had no more than 15 shareholders and at least 80% of the value of the assets of

each corporation is attributable to assets used in carrying on a trade or business, then these corporations will be treated as a single corporation, and the stock will not be treated as a passive asset. Stock held in the other corporation is not taken into account in determining the 80% requirement.

**Interest in closely held business.** For purposes of the installment payment election, an interest in a closely held business means:

- Ownership of a trade or business carried on as a proprietorship.
- An interest as a partner in a partnership carrying on a trade or business if 20% or more of the total capital interest was included in the gross estate of the decedent or the partnership had no more than 15 partners.
- Stock in a corporation carrying on a trade or business if 20% or more in value of the voting stock of the corporation is included in the gross estate of the decedent or the corporation had no more than 15 shareholders.

The partnership or corporation must be carrying on a trade or business at the time of the decedent's death.

In determining the number of partners or shareholders, a partnership or stock interest is treated as owned by one partner or shareholder if it is community property or held by a husband and wife as joint tenants, tenants in common, or as tenants by the entirety.

Property owned directly or indirectly by or for a corporation, partnership, estate, or trust is treated as owned proportionately by or for its shareholders, partners, or beneficiaries. For trusts, only beneficiaries with current interests are considered.

The interest in a closely held farm business includes the interest in the residential buildings and related improvements occupied regularly by the owners, lessees, and employees operating the farm.

**Holding company stock.** The executor may elect to treat as business company stock the portion of any holding company stock that represents direct ownership (or indirect ownership through one or more other holding companies) in a business company. A **holding company** is a corporation holding stock in another corporation. A **business company** is a corporation carrying on a trade or business.

This election applies only to stock that is not readily tradable. For purposes of the 20% voting stock requirement, stock is treated as voting stock to the extent the holding company owns voting stock in the business company.

If the executor makes this election, the first installment payment is due when the estate tax return is filed. The 5-year deferral for payment of the tax, as discussed below under **Time for payment**, does not apply.

**Time for payment.** Under the installment method, the executor may elect to **defer** payment of the qualified estate tax, but not interest, for up to 5 years from the original payment due date. After the first installment of tax is paid, you must pay the remaining installments annually by the date 1 year after the due date of the preceding installment. There can be no more than 10 installment payments.

Interest on the unpaid portion of the tax is not deferred and must be paid annually. Interest must be paid at the same time as and as a part of each installment payment of the tax.

For information on the acceleration of payment when an interest in the closely held business is disposed of, see section 6166(g).

**Important:** *The interest paid on installment payments is **not** deductible as an administrative expense of the estate.*

**Making the election.** If you check this line to make a protective election, you should attach a notice of protective election as described in Regulations section 20.6166-1(d). If you check this line to make a final election, you should attach the notice of election described in Regulations section 20.6166-1(b).

In computing the adjusted gross estate under section 6166(b)(6) to determine whether an election may be made under section 6166, the net amount of any real estate in a closely held business must be used.

You may also elect to pay GST taxes in installments. See section 6166(i).

### Line 4 – Reversionary or Remainder Interests

For details of this election, see section 6163 and the related regulations.

## Instructions for Part 4.

### General Information (Page 2 of Form REV 85 0046)

#### Line 2 – Section 2044 Property

If you answered "Yes," these assets must be shown on Schedule F.

Section 2044 property is property for which a previous section 2056(b)(7) election (QTIP election) has been made, or for which a similar gift tax election (section 2523) has been made. For more information, see the instructions on the back of Schedule F.

#### Lines 4 and 5 – Insurance Not Included in Gross Estate

If you checked "Yes" for either line 4 or 5, you must complete and attach Schedule D and attach a **Form 712**, Life Insurance Statement, for each policy and an explanation of why the policy or its proceeds are not includible in the gross estate.

#### Line 7 – Partnership Interests and Stock in Close Corporations

If you answered "Yes" to line 7, you must include full details for partnerships and unincorporated businesses on Schedule F (Schedule E if the partnership interest is jointly owned). You must include full details for the stock of inactive or close corporations on Schedule B.

Value these interests using the rules of Regulations section 20.2031-2 (stocks) or 20.2031-3 (other business interests).

A "close corporation" is a corporation whose shares are owned by a limited number of shareholders. Often, one family holds the entire stock issue. As a result, little, if any, trading of the stock takes place. There is, therefore, no established market for the stock, and those sales that do occur are at irregular intervals and seldom reflect all the elements of a representative transaction as defined by the term "fair market value" (FMV).

#### Line 9 – Trusts

**If you answered "Yes" to either 9a or 9b, you must attach a copy of the trust instrument for each trust.**

You must complete Schedule G if you answered "Yes" to 9a and Schedule F if you answered "Yes" to 9b.

#### Line 11 – Transitional Marital Deduction Computation

Check "Yes" if property passes to the surviving spouse under a maximum

marital deduction formula provision that meets the requirements of section 403(e)(3) of the Economic Recovery Tax Act of 1981 (P.L. 97-34; 95 Stat. 305).

If you check "Yes" to line 11, compute the marital deduction under the rules that were in effect before the Economic Recovery Tax Act of 1981.

For a format for this computation, you should obtain the November 1981 revision of Form 706 and its instructions. The computation is items 19 through 26 of the Recapitulation. You should also apply the rules of Rev. Rul. 80-148, 1980-1 C.B. 207, if there is property that passes to the surviving spouse outside of the maximum marital deduction formula provision.

#### Lines 17 and 18

Complete line 17 whether or not there is a surviving spouse and whether or not the surviving spouse received any benefits from the estate. If there was no surviving spouse on the date of decedent's death, enter "None" in line 17 and leave line 18 blank. The value entered in line 18 need not be exact. See the instructions for "Amount" under line 19, below.

#### Line 19

**Name.** Enter the name of each individual, trust, or estate who received (or will receive) benefits of \$5,000 or more from the estate directly as an heir, next-of-kin, devisee, or legatee; or indirectly (for example, as beneficiary of an annuity or insurance policy, shareholder of a corporation, or partner of a partnership that is an heir, etc.).

**Identifying number.** Enter the SSN of each individual beneficiary listed. If the number is unknown, or the individual has no number, please indicate "unknown" or "none." For trusts and other estates, enter the EIN.

**Relationship.** For each individual beneficiary enter the relationship (if known) to the decedent by reason of blood, marriage, or adoption. For trust or estate beneficiaries, indicate TRUST or ESTATE.

**Amount.** Enter the amount actually distributed (or to be distributed) to each beneficiary including transfers during the decedent's life from Schedule G required to be included in the gross estate. The value to be entered need not be exact. A reasonable estimate is sufficient. For example, where precise values cannot readily be determined, as with certain future interests, a reasonable approximation should be entered. The total of these distributions should

approximate the amount of gross estate reduced by funeral and administrative expenses, debts and mortgages, bequests to surviving spouse, charitable bequests, and any Federal and state estate and GST taxes paid (or payable) relating to the benefits received by the beneficiaries listed on lines 4 and 5.

All distributions of less than \$5,000 to specific beneficiaries may be included with distributions to unascertainable beneficiaries on the line provided.

## Instructions for Part 5.

### Recapitulation (Page 3 of Form REV 85 0046)

#### Gross Estate

**Items 1 through 10- You must make an entry in each of Items 1 through 9.**

If the gross estate does not contain any assets of the type specified by a given item, enter zero for that item. Entering zero for any of items 1 through 9 is a statement by the executor, made under penalties of perjury, that the gross estate does not contain any includible assets covered by that item.

**Do not** enter any amounts in the "Alternate value" column unless you elected alternate valuation on line 1 of Elections by the Executor on page 2 of the Form REV 85 0046.

**Which schedules to attach for Items 1 through 9.** You must attach-

- Schedule F to the return and answer its questions even if you report no assets on it.
- Schedules A, B, and C if the gross estate includes any Real Estate; Stocks and Bonds; or Mortgages, Notes, and Cash, respectively.
- Schedule D if the gross estate includes any Life Insurance or if you answered "Yes" to question 5 of Part 4, General Information.
- Schedule E if the gross estate contains any Jointly Owned Property or if you answered "Yes" to question 6 of Part 4.
- Schedule G if the decedent made any of the lifetime transfers to be listed on that schedule or if you answered "Yes" to question 8 or 12a of Part 4.
- Schedule H if you answered "Yes" to question 10 of Part 4.
- Schedule I if you answered "Yes" to question 12 of Part 4.

## Exclusion

**Item 11-Conservation easement exclusion.** You must complete and attach Schedule U (along with any required attachments) to claim the exclusion on this line.

## Deductions

**Items 13 through 22-** You must attach the appropriate schedules for the deductions you claim.

**Item 17-** If item 16 is less than or equal to the value (at the time of the decedent's death) of the property subject to claims, enter the amount from item 16 on item 17.

If the amount on item 16 is more than the value of the property subject to claims, enter the greater of (a) the value of the property subject to claims, or (b) the amount actually paid at the time the return is filed.

In no event should you enter more on item 17 than the amount on item 16. See section 2053 and the related regulations for more information.

## Instructions for Part 6. Decedent was a resident of Washington with assets in more than one State.

**Line 1-**Include the gross value of the estate from Part 2, Line 1 of Form REV 85 0046

**Line 2-**Include the gross value of all real and tangible personal property located in other states. \*Do not include intangible assets located in other states.

**Line 3-**Include the total state death tax credit from Part 2, Line 15 of Form REV 85 0046

**Line 4-**Include the State Death Tax allocable to other states which is determined by dividing Line 2 by Line 1 and multiplying by Line 3.

**Line 5-**Include the amount of death taxes paid to other states (include a copy of the other state's return(s)).

**Line 6-**Include the lesser of Line 4 or Line 5 to determine the allowable State Death Tax

**Line 7-**Enter the Washington Estate Tax (Subtract Line 6 from Line 3)

## Instructions for Part 7. Decedent was a nonresident of Washington with assets in the State of Washington.

**Line 1-**Include the gross value of the estate from Part 2, Line 1 of Form REV 85 0046

**Line 2-**Include the gross value of all real and tangible personal property located in Washington. \*Do not include intangible assets located in the State of Washington.

**Line 3-**Include the total state death tax credit from Part 2, Line 15 of Form REV 85 0046

**Line 4-**Enter the Washington Estate Tax by dividing Line 2 by Line 1 and multiplying by Line 3

## Instructions for Part 8. Generation-Skipping Transfer (GST) Tax – Residents and Nonresidents

A tax in an amount equal to the federal credit provided by section 2604 of the 2001 IRC is imposed on every generation-skipping transfer, if real or tangible personal property subject to the federal tax is located in this state or if the trust has its principal place of administration in this state at the time of the generation-skipping transfer. The allowable Washington credit equals the GST tax multiplied by 5% (.05). If state GST tax credit was paid to another state(s), you must attach evidence of the credit paid.

- On line 1, enter the gross value of distributions and termination subject to federal GST tax from Schedule A of the 706-GS(T) and from Part II of the 706-GS(D).
- On line 2, enter the gross value of distributions and terminations subject to GST of other states.
- On line 3, enter the total allowable State GST tax credit from Schedule A of the 706-GS(T) and from Part III of the 706-GS(D).
- On line 4, enter the State GST tax credit allocable to other states – Divide Line 2 by Line 1 and multiply by Line 3 ((Line 2/Line 1) x Line 3).
- On line 5, enter the amount of GST Taxes paid to other states. **Attach credit evidence.**
- On line 6, enter allowable State GST tax credit paid to other states (lesser of Line 4 or Line 5).
- On line 7, enter the Washington State GST Tax (subtract Line 6 from Line 3).

## Instructions for Schedule A. Real Estate

See the reverse side of Schedule A on Form REV 85 0046.

## Schedule A-1. Section 2032A Valuation

See Schedule A-1 on Form REV 85 0046.

## Instructions for Schedule B. Stocks and Bonds

### General

If the total gross estate contains any stocks or bonds, you must complete Schedule B and file it with the return.

On Schedule B list the stocks and bonds included in the decedent's gross estate. Number each item in the left-hand column. **Bonds that are exempt from Federal income tax are not exempt from estate tax unless specifically exempted by an estate tax provision of the Code.** Therefore, you should list these bonds on Schedule B.

Public housing bonds includible in the gross estate must be included at their full value.

If you paid any estate, inheritance, legacy, or succession tax to a foreign country on any stocks or bonds included in this schedule, group those stocks and bonds together and label them "Subjected to Foreign Death Taxes."

List interest and dividends on each stock or bond separately. Indicate as a separate item dividends that have not been collected at death, but which are payable to the decedent or the estate because the decedent was a stockholder of record on the date of death. However, if the stock is being traded on an exchange and is selling ex-dividend on the date of the decedent's death, do not include the amount of the dividend as a separate item. Instead, add it to the ex-dividend quotation in determining the fair market value of the stock on the date of the decedent's death. Dividends declared on shares of stock before the death of the decedent but payable to stockholders of record on a date after the decedent's death are not includible in the gross estate for estate tax purposes.

### Description

**Stocks.** For stocks indicate:

- Number of shares
- Whether common or preferred
- Issue
- Par value where needed for identification
- Price per share
- Exact name of corporation
- Principal exchange upon which sold, if listed on an exchange
- Nine-digit CUSIP number

**Bonds.** For bonds indicate:

- Quantity and denomination
- Name of obligor
- Date of maturity
- Interest rate
- Interest due date
- Principal exchange, if listed on an exchange
- Nine-digit CUSIP number
- If the stock or bond is unlisted, show the company's principal business office.

The CUSIP (Committee on Uniform Security Identification Procedure) number is a nine-digit number that is assigned to all stocks and bonds traded on major exchanges and many unlisted securities. Usually, the CUSIP number is printed on the face of the stock certificate. If the CUSIP number is not printed on the certificate, it may be obtained through the company's transfer agent.

**Valuation**

List the fair market value (FMV) of the stocks or bonds. The FMV of a stock or bond (whether listed or unlisted) is the mean between the highest and lowest selling prices quoted on the valuation date. If only the closing selling prices are available, then the FMV is the mean between the quoted closing selling price on the valuation date and on the trading day before the valuation date.

To figure the FMV if there were no sales on the valuation date:

1. Find the mean between the highest and lowest selling prices on the nearest trading date before and the nearest trading date after the valuation date. Both trading dates must be reasonably close to the valuation date.
2. Prorate the difference between the mean prices to the valuation date.
3. Add or subtract (whichever applies) the prorated part of the difference to or from the mean price figured for the nearest trading date before the valuation date.

If no actual sales were made reasonably close to the valuation date, make the same computation using the mean between the bona fide bid and asked prices instead of sales prices. If actual sales prices or bona fide bid and asked prices are available within a reasonable period of time before the valuation date but not after the valuation date, or vice versa, use the mean between the highest and lowest sales prices or bid and asked prices as the FMV.

For example, assume that sales of stock nearest the valuation date (June 15) occurred 2 trading days before (June 13) and 3 trading days after (June 18). On those days the mean sale prices per share were \$10 and \$15, respectively. Therefore, the price of \$12 is considered the FMV of a share of stock on the valuation date. If, however, on June 13 and 18, the mean sale prices per share were \$15 and \$10, respectively, the FMV of a share of stock on the valuation date is \$13.

If only closing prices for bonds are available, see Regulations section 20.2031-2(b).

Apply the rules in the section 2031 regulations to determine the value of inactive stock and stock in close corporations. Send with the schedule complete financial and other data used to determine value, including balance sheets (particularly the one nearest to the valuation date) and statements of the net earnings or operating results and dividends paid for each of the 5 years immediately before the valuation date.

Securities reported as of no value, nominal value, or obsolete should be listed last. Include the address of the company and the state and date of the incorporation. Attach copies of correspondence or statements used to determine the "no value."

If the security was listed on more than one stock exchange, use either the records of the exchange where the security is principally traded or the composite listing of combined exchanges, if available, in a publication of general circulation. In valuing listed stocks and bonds, you should carefully check accurate records to obtain values for the applicable valuation date.

If you get quotations from brokers, or evidence of the sale of securities from the officers of the issuing companies, attach to the schedule copies of the letters furnishing these quotations or evidence of sale.

See Rev. Rul. 69-489, 1969-2 C.B. 172, for the special valuation rules for certain marketable U.S. Treasury Bonds (issued before March 4, 1971). These bonds, commonly called 'flower bonds,' may be redeemed at par plus accrued interest in payment of the tax at any Federal Reserve bank, the office of the Treasurer of the United States, or the Bureau of the Public Debt, as explained in Rev. Proc. 69-18, 1969-2 C.B. 300.

**Instructions for Schedule C.  
Mortgages, Notes and Cash**

See the reverse side of Schedule C on Form  
REV 85 0046.

**Instructions for Schedule D.  
Life Insurance on the Decedent's Life**

See the reverse side of Schedule D on Form  
REV 85 0046.

**Instructions for Schedule E.  
Jointly Owned Property**

See the reverse side of Schedule E on Form  
REV 85 0046.

**Instructions for Schedule F.  
Other Miscellaneous Property**

See the reverse side of Schedule F on Form  
REV 85 0046.

**Instructions for Schedule G.  
Transfers During Decedent's Life**

Complete Schedule G and file it with the return if the decedent made any of the transfers described in 1 through 5 below, or if you answered "Yes" on line 8 of Part 4, General Information.

Report the following types of transfers on this schedule.

Beginning with the estates of decedents dying after August 5, 1997:

IF...	AND...	THEN...
the decedent made a transfer from a trust	at the time of the transfer, the transfer was from a portion of the trust that was owned by the grantor under section 676 (other than by reason of section 672(e)) by reason of a power in the grantor,	for purposes of sections 2035 and 2038, treat the transfer as made directly by the decedent.  Any such transfer within the annual gift tax exclusion is not includible in the gross estate.

## 1. Certain gift taxes (section 2035(b))

Enter at item **A** of the Schedule the total value of the gift taxes that were paid by the decedent or the estate on gifts made by the decedent or the decedent's spouse within 3 years before death.

The date of the gift, not the date of payment of the gift tax, determines whether a gift tax paid is included in the gross estate under this rule. Therefore, you should carefully examine the Forms 709 filed by the decedent and the decedent's spouse to determine what part of the total gift taxes reported on them was attributable to gifts made within 3 years before death.

For example, if the decedent died on July 10, 1999, you should examine gift tax returns for 1999, 1998, 1997, and 1996. However, the gift taxes on the 1996 return that are attributable to gifts made before July 10, 1996, are not included in the gross estate.

Attach an explanation of how you computed the includible gift taxes if you do not include in the gross estate the entire gift taxes shown on any Form 709 filed for gifts made within 3 years of death. Also attach copies of any pertinent gift tax returns filed by the decedent's spouse for gifts made within 3 years of death.

## 2. Other Transfers within 3 years before death (section 2035(a))

These transfers include *only* the following:

- Any transfer by the decedent with respect to a life insurance policy within 3 years before death.
- Any transfer within 3 years before death of a retained section 2036 life estate, section 2037 reversionary interest, or section 2038 power to revoke, etc., if the property subject to the life estate, interest, or power would have been included in the gross estate had the decedent continued to possess the life estate, interest, or power until death.

These transfers are reported on Schedule G regardless of whether a gift tax return was required to be filed for them when they were made. However, the amount includible and the information required to be shown for the transfers are determined:

- For insurance on the life of the decedent using the instructions to Schedule D. (Attach Forms 712.)

- For insurance on the life of another using the instructions to Schedule F. (Attach Forms 712.)
- For sections 2036, 2037, and 2038 transfers, using paragraphs 3, 4, and 5 of these instructions.

## 3. Transfers with retained life estate (section 2036)

These are transfers by the decedent in which the decedent retained an interest in the transferred property. The transfer can be in trust or otherwise, but excludes bona fide sales for adequate and full consideration.

**Interests or rights.** Section 2036 applies to the following retained interests or rights:

- The right to income from the transferred property.
- The right to the possession or enjoyment of the property.
- The right, either alone or with any person, to designate the persons who shall receive the income from, or possess or enjoy, the property.

**Retained voting rights.** Transfers with a retained life estate also include transfers of stock in a "controlled corporation" after June 22, 1976, if the decedent retained or acquired voting rights in the stock. If the decedent retained direct or indirect voting rights in a controlled corporation, the decedent is considered to have retained enjoyment of the transferred property. A corporation is a "controlled corporation" if the decedent owned (actually or constructively) or had the right (either alone or with any other person) to vote at least 20% of the total combined voting power of all classes of stock. See section 2036(b). If these voting rights ceased or were relinquished within 3 years before the decedent's death, the corporate interests are included in the gross estate as if the decedent had actually retained the voting rights until death.

The amount includible in the gross estate is the value of the transferred property at the time of the decedent's death. If the decedent kept or reserved an interest or right to only a part of the transferred property, the amount includible in the gross estate is a corresponding part of the entire value of the property.

A retained life estate does not have to be legally enforceable. What matters is that a substantial economic benefit was retained. For example, if a mother transferred title to her home to her daughter but with the informal understanding that she was to continue living there until her death, the value of

the home would be includible in the mother's estate even if the agreement would not have been legally enforceable.

## 4. Transfers taking effect at death (section 2037)

A transfer that takes effect at the decedent's death is one under which possession or enjoyment can be obtained only by surviving the decedent. A transfer is not treated as one that takes effect at the decedent's death unless the decedent retained a reversionary interest (defined below) in the property that immediately before the decedent's death had a value of more than 5% of the value of the transferred property. If the transfer was made before October 8, 1949, the reversionary interest must have arisen by the express terms of the instrument of transfer.

A reversionary interest is generally any right under which the transferred property will or may be returned to the decedent or the decedent's estate. It also includes the possibility that the transferred property may become subject to a power of disposition by the decedent. It does not matter if the right arises by the express terms of the instrument of transfer or by operation of law. For this purpose, reversionary interest **does not** include the possibility the income alone from the property may return to the decedent or become subject to the decedent's power of disposition.

## 5. Revocable transfers (section 2038)

The gross estate includes the value of transferred property in which the enjoyment of the transferred property was subject at decedent's death to any change through the exercise of a power to alter, amend, revoke, or terminate. A decedent's power to change the beneficiaries and to hasten or increase any beneficiary's enjoyment of the property are examples of this.

It does not matter whether the power was reserved at the time of the transfer, whether it arose by operation of law, or was later created or conferred. The rule applies regardless of the source from which the power was acquired, and regardless of whether the power was exercisable by the decedent alone or with any person (and regardless of whether that person had a substantial adverse interest in the transferred property).

The capacity in which the decedent could use a power has no bearing. If the decedent gave property in trust and was the trustee with the power to revoke the trust, the property would be included in

his or her gross estate. For transfers or additions to an irrevocable trust after October 28, 1979, the transferred property is includible if the decedent reserved the power to remove the trustee at will and appoint another trustee.

If the decedent relinquished within 3 years before death any of the includible powers described above, figure the gross estate as if the decedent had actually retained the powers until death.

Only the part of the transferred property that is subject to the decedent's power is included in the gross estate.

### Special Valuation Rules for Certain Lifetime Transfers

Code sections 2701-2704 provide rules for valuing certain transfers to family members.

Section 2701 deals with the transfer of an interest in a corporation or partnership while retaining certain distribution rights, or a liquidation, put, call, or conversion right.

Section 2702 deals with the transfer of an interest in a trust while retaining any interest other than a qualified interest. In general, a qualified interest is a right to receive certain distributions from the trust at least annually, or a noncontingent remainder interest if all of the other interests in the trust are distribution rights specified in section 2702.

Section 2703 provides rules for the valuation of property transferred to a family member but subject to an option, agreement, or other right to acquire or use the property at less than FMV. It also applies to transfers subject to restrictions on the right to sell or use the property.

Finally, section 2704 provides that in certain cases the lapse of a voting or liquidation right in a family-owned corporation or partnership will result in a deemed transfer.

These rules have potential consequences for the valuation of property in an estate. If the decedent (or any member of his or her family) was involved in any such transactions, see Code sections 2701 through 2704 and the related regulations for additional details.

### How To Complete Schedule G

All transfers (other than outright transfers not in trust and bona fide sales) made by the decedent at any time during life must be reported on the Schedule regardless of whether you believe the transfers are subject to tax. If the decedent made any transfers not described in the instructions above, the transfers should not be shown

on Schedule G. Instead, attach a statement describing these transfers: list the date of the transfer, the amount or value of the transferred property, and the type of transfer.

Complete the schedule for each transfer that is included in the gross estate under sections 2035(a), 2036, 2037, and 2038 as described in the Instructions for Schedule G above.

In the "Item number" column, number each transfer consecutively beginning with 1. In the "Description" column, list the name of the transferee, the date of the transfer, and give a complete description of the property. Transfers included in the gross estate should be valued on the date of the decedent's death or, if alternate valuation is adopted, according to section 2032.

If only part of the property transferred meets the terms of section 2035(a), 2036, 2037, or 2038, then only a corresponding part of the value of the property should be included in the value of the gross estate. If the transferee makes additions or improvements to the property, the increased value of the property at the valuation date should not be included on Schedule G. However, if only a part of the value of the property is included, enter the value of the whole under the column headed "Description" and explain what part was included.

**Attachments.** If a transfer, by trust or otherwise, was made by a written instrument, attach a copy of the instrument to the Schedule. If of public record, the copy should be certified; if not of record, the copy should be verified.

## Instructions for Schedule H. Powers of Appointment

Complete Schedule H and file it with the return if you answered "Yes" to line 10 of Part 4, General Information.

On Schedule H, include in the gross estate:

- The value of property for which the decedent possessed a general power of appointment (defined below) on the date of his or her death; and
- The value of property for which the decedent possessed a general power of appointment that he or she exercised or released before death by disposing of it in such a way that if it were a transfer of property owned by the decedent, the property would be includible in the decedent's gross estate as a transfer with a retained life estate, a transfer taking effect at death, or a revocable transfer.

With the above exceptions, property subject to a power of appointment is not includible in the gross estate if the decedent released the power completely and the decedent held no interest in or control over the property.

If the failure to exercise a general power of appointment results in a lapse of the power, the lapse is treated as a release only to the extent that the value of the property that could have been appointed by the exercise of the lapsed power is more than the greater of \$5,000 or 5% of the total value, at the time of the lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed power could have been satisfied.

### Powers of Appointment

A power of appointment determines who will own or enjoy the property subject to the power and when they will own or enjoy it. The power must be created by someone other than the decedent. It does not include a power created or held on property transferred by the decedent.

A power of appointment includes all powers which are in substance and effect powers of appointment regardless of how they are identified and regardless of local property laws. For example, if a settlor transfers property in trust for the life of his wife, with a power in the wife to appropriate or consume the principal of the trust, the wife has a power of appointment.

Some powers do not in themselves constitute a power of appointment. For example, a power to amend only administrative provisions of a trust that cannot substantially affect the beneficial enjoyment of the trust property or income is not a power of appointment. A power to manage, invest, or control assets, or to allocate receipts and disbursements, when exercised only in a fiduciary capacity, is not a power of appointment.

**General power of appointment.** A general power of appointment is a power that is exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the decedent's estate, **except:**

1. A power to consume, invade, or appropriate property for the benefit of the decedent that is limited by an ascertainable standard relating to health, education, support, or maintenance of the decedent.
2. A power exercisable by the decedent only in conjunction with-
  - a. the creator of the power, or

- b. a person who has a substantial interest in the property subject to the power, which is adverse to the exercise of the power in favor of the decedent.

A part of a power is considered a general power of appointment if the power:

1. May only be exercised by the decedent in conjunction with another person; and
2. Is also exercisable in favor of the other person (in addition to being exercisable in favor of the decedent, the decedent's creditors, the decedent's estate, or the creditors of the decedent's estate).

The part to include in the gross estate as a general power of appointment is figured by dividing the value of the property by the number of persons (including the decedent) in favor of whom the power is exercisable.

**Date power was created.** Generally, a power of appointment created by will is considered created on the date of the testator's death.

A power of appointment created by an inter vivos instrument is considered created on the date the instrument takes effect. If the holder of a power exercises it by creating a second power, the second power is considered as created at the time of the exercise of the first.

**Attachments.** If the decedent ever possessed a power of appointment, attach a certified or verified copy of the instrument granting the power and a certified or verified copy of any instrument by which the power was exercised or released. You must file these copies even if you contend that the power was not a general power of appointment, and that the property is not otherwise includible in the gross estate.

## Instructions for Schedule I Annuities

You must complete Schedule I and file it with the return if you answered "Yes" to question 12 of Part 4, General Information.

Enter on Schedule I every annuity that meets all of the conditions under **General**, below, and every annuity described in paragraphs **a-h** of **Annuities Under Approved Plans**, even if the annuities are wholly or partially excluded from the gross estate.

See the instructions for line 3 of Schedule M for a discussion regarding the QTIP

treatment of certain joint and survivor annuities.

### General

In general, you must include in the gross estate all or part of the value of any annuity that meets the following requirements:

- It is receivable by a beneficiary following the death of the decedent and by reason of surviving the decedent;
- The annuity is under a contract or agreement entered into after March 3, 1931;
- The annuity was payable to the decedent (or the decedent possessed the right to receive the annuity) either alone or in conjunction with another, for the decedent's life or for any period not ascertainable without reference to the decedent's death or for any period that did not in fact end before the decedent's death;
- The contract or agreement is not a policy of insurance on the life of the decedent.

These rules apply to all types of annuities, including pension plans, individual retirement arrangements, and purchased commercial annuities.

An annuity contract that provides periodic payments to a person for life and ceases at the person's death is not includible in the gross estate. Social Security benefits are not includible in the gross estate even if the surviving spouse receives benefits.

An annuity or other payment that is not includible in the decedent's or the survivor's gross estate as an annuity may still be includible under some other applicable provision of the law. For example, see **Powers of Appointment** above.

If the decedent retired before January 1, 1985, see **Annuities Under Approved Plans** below for rules that allow the exclusion of part or all of certain annuities.

### Part Includible

If the decedent contributed only part of the purchase price of the contract or agreement, include in the gross estate only that part of the value of the annuity receivable by the surviving beneficiary that the decedent's contribution to the purchase price of the annuity or agreement bears to the total purchase price.

For example, if the value of the survivor's annuity was \$20,000 and the decedent

had contributed three-fourths of the purchase price of the contract, the amount includible is \$15,000 ( $3/4 \times \$20,000$ ).

Except as provided under **Annuities Under Approved Plans**, contributions made by the decedent's employer to the purchase price of the contract or agreement are considered made by the decedent if they were made by the employer because of the decedent's employment. For more information, see section 2039.

### Definitions

**Annuity.** The term "annuity" includes one or more payments extending over any period of time. The payments may be equal or unequal, conditional or unconditional, periodic or sporadic.

**Examples.** The following are examples of contracts (but not necessarily the only forms of contracts) for annuities that must be included in the gross estate.

1. A contract under which the decedent immediately before death was receiving or was entitled to receive, for the duration of life, an annuity with payments to continue after death to a designated beneficiary, if surviving the decedent.
2. A contract under which the decedent immediately before death was receiving or was entitled to receive, together with another person, an annuity payable to the decedent and the other person for their joint lives, with payments to continue to the survivor following the death of either.
3. A contract or agreement entered into by the decedent and employer under which the decedent immediately before death and following retirement was receiving, or was entitled to receive, an annuity payable to the decedent for life and after the decedent's death to a designated beneficiary, if surviving the decedent, whether the payments after the decedent's death are fixed by the contract or subject to an option or election exercised or exercisable by the decedent. However, see **Annuities Under Approved Plans**, below,
4. A contract or agreement entered into by the decedent and the decedent's employer under which at the decedent's death, before retirement, or before the expiration of a stated period of time, an annuity was payable to a designated beneficiary, if surviving the decedent. However,

see **Annuities Under Approved Plans**, below.

5. A contract or agreement under which the decedent immediately before death was receiving, or was entitled to receive, an annuity for a stated period of time, with the annuity to continue to a designated beneficiary, surviving the decedent, upon the decedent's death and before the expiration of that period of time.
6. An annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary for life or over a period of at least 36 months after the date of the decedent's death under an individual retirement account, annuity, or bond as described in section 2039(e) (before its repeal by P.L. 98-369).

**Payable to the decedent.** An annuity or other payment **was payable** to the decedent if, at the time of death, the decedent was in fact receiving an annuity or other payment, with or without an enforceable right to have the payments continued.

**Right to receive an annuity.** The decedent had the **right to receive** an annuity or other payment if, immediately before death, the decedent had an enforceable right to receive payments at some time in the future, whether or not at the time of death the decedent had a present right to receive payments.

#### **Annuities Under Approved Plans**

The following rules relate to whether part or all of an otherwise includible annuity may be excluded. These rules have been repealed and apply only if the decedent either:

1. On December 31, 1984, was both a participant in the plan and in pay status (i.e., had received at least one benefit payment on or before December 31, 1984), and had irrevocably elected the form of the benefit before July 18, 1984; **or**
2. Had separated from service before January 1, 1985, and did not change the form of benefit before death.

The amount excluded cannot exceed \$100,000 unless either of the following conditions is met:

1. On December 31, 1982, the decedent was both a participant in the plan and in pay status (i.e., had received at least one benefit payment on or before December 31, 1982), and the decedent irrevocably elected

the form of the benefit before January 1, 1983; **or**

2. The decedent separated from service before January 1, 1983, and did not change the form of benefit before death.

#### **Approved Plans**

Approved plans may be separated into two categories:

- Pension, profit-sharing, stock bonus, and other similar plans, and
- Individual retirement arrangements (IRAs), and retirement bonds

Different exclusion rules apply to the two categories of plans.

**Pension, etc., plans.** The following plans are approved plans for the exclusion rules:

- a. An employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan that met all the requirements of section 401 (a), either at the time of the decedent's separation from employment (whether by death or otherwise) or at the time of the termination of the plan (if earlier).
- b. A retirement annuity contract purchased by the employer (but not by an employees' trust) under a plan that, at the time of the decedent's separation from employment (by death or otherwise), or at the time of the termination of the plan (if earlier), was a plan described in section 403(a).
- c. A retirement annuity contract purchased for an employee by an employer that is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or that is a religious organization (other than a trust), and that is exempt from tax under section 501 (a).
- d. Chapter 73 of Title 10 of the United States Code.
- e. A bond purchase plan described in section 405 (before its repeal by P.L. 98-369, effective for obligations issued after December 31, 1983.)

**Exclusion rules for pension, etc., plans.** If an annuity under an "approved plan" described in **a-e** above is receivable by a beneficiary other than the executor and the decedent made no contributions under the plan toward the cost, no part of the value of the annuity, subject to the \$100,000 limitation (if applicable), is includible in the gross estate.

If the decedent made a contribution under a plan described in **a-e** above toward the cost, include in the gross estate on this schedule that proportion of the value of the annuity which the amount of the decedent's contribution under the plan bears to the total amount of all contributions under the plan. The remaining value of the annuity is excludable from the gross estate subject to the \$100,000 limitation (if applicable). For the rules to determine whether the decedent made contributions to the plan, see Regulations section 20.2039.

**IRAs and retirement bonds.** The following plans are approved plans for the exclusion rules:

- f. An individual retirement account described in section 408(a);
- g. An individual retirement annuity described in section 408(b);
- h. A retirement bond described in section 409(a) (before its repeal by P.L. 98-369).

**Exclusion rules for IRAs and retirement bonds.** These plans are approved plans only if they provide for a series of substantially equal periodic payments made to a beneficiary for life, or over a period of at least 36 months after the date of the decedent's death.

Subject to the \$100,000 limitation, if applicable, if an annuity under a "plan" described in **f-h** above is receivable by a beneficiary other than the executor, the entire value of the annuity is excludable from the gross estate even if the decedent made a contribution under the plan.

However, if any payment to or for an account or annuity described in paragraph **f, g, or h** above was not allowable as an income tax deduction under section 219 (and was not a rollover contribution as described in section 2039(e) before its repeal by P.L. 98-369), include in the gross estate on this schedule that proportion of the value of the annuity which the amount not allowable as a deduction under section 219 and not a rollover contribution bears to the total amount paid to or for such account or annuity. For more information, see Regulations section 20.2039-5.

**Rules applicable to all approved plans.** The following rules apply to all approved plans described in paragraphs **a-h** above.

If any part of an annuity under a "plan" described in **a-h** above is receivable by the executor, it is generally includible in the gross estate on this schedule to the extent that it is receivable by the executor in that capacity. In general, the annuity is



receivable by the executor if it is to be paid to the executor or if there is an agreement (expressed or implied) that it will be applied by the beneficiary for the benefit of the estate (such as in discharge of the estate's liability for death taxes or debts of the decedent, etc.) or that its distribution will be governed to any extent by the terms of the decedent's will or the laws of descent and distribution.

If data available to you does not indicate whether the plan satisfies the requirements of section 401 (a), 403(a), 408(a), 408(b), or 409(a), you may obtain that information from the District Director of Internal Revenue for the district where the employer's principal place of business is located.

#### Line A-Lump Sum Distribution Election

The election pertaining to the lump sum distribution from qualified plans (approved plans) excludes from the gross estate all or part of the lump sum distribution that would otherwise be includible. When the recipient makes the election to take a lump sum distribution and include it in his or her income tax, the amount excluded from the gross estate is the portion attributable to the employer contributions. The portion, if any, attributable to the employee-decedent's contributions is always includible. The actual election is made by the recipient of the distribution by taking the lump sum distribution and by treating it as taxable on his or her income tax return as described in Regulations section 20.2039-4(d). The election is irrevocable. However, you may not compute the gross estate in accordance with this election unless you check 'Yes' to line A and attach the name, address, and identifying number of the recipients of the lump sum distributions. See Regulations section 20.2039-4.

#### How To Complete Schedule I

In describing an annuity, give the name and address of the grantor of the annuity. Specify if the annuity is under an approved plan.

IF...	THEN...
the annuity is under an approved plan,	state the ratio of the decedent's contribution to the total purchase price of the annuity.
the decedent was employed at the time of death and an annuity as described in Definitions, Annuity, Example 4, on page 15, became payable to any beneficiary because the beneficiary survived the decedent,	state the ratio of the decedent's contribution to the total purchase price of the annuity
an annuity under an individual retirement account or annuity became payable to any beneficiary because that beneficiary survived the decedent and is payable to the beneficiary for life or at least 36 months following the decedent's death,	state the ratio of the amount paid for the individual retirement account of annuity that was not allowable as an income tax deduction under section 219 (other than a rollover contribution) to the total amount paid for the account or annuity.
the annuity is payable out of a trust or other fund,	the description should be sufficiently complete to fully identify it.
the annuity is payable for a term of years,	include the duration of the term and the date on which it began.
the annuity is payable for the life of a person other than the decedent,	include the date of birth of that person.
the annuity is wholly or partially excluded from the gross estate,	enter the amount excluded under "Description" and explain how you computed the exclusion.

### Instructions for Schedule J Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims

See the reverse side of Schedule J on Form REV 85 0046.

### Instructions for Schedule K Debts of the Decedent and Mortgages and Liens

You must complete and attach Schedule K if you claimed deductions on either item 14 or item 15 of Part 8, Recapitulation.

#### Income vs. estate tax deduction.

Taxes, interest, and business expenses accrued at the date of the decedent's death are deductible both on Schedule K and as deductions in respect of the decedent on the income tax return of the estate.

If you choose to deduct medical expenses of the decedent only on the estate tax return, they are fully deductible as claims against the estate. If, however, they are claimed on the decedent's final income tax return under section 213(c), they may not also be claimed on the estate tax return. In this case, you also may not deduct on the estate tax return any amounts that were not deductible on the income tax return because of the percentage limitations.

#### Debts of the Decedent

List under "Debts of the Decedent" only valid debts the decedent owed at the time of death. List any indebtedness secured by a mortgage or other lien on property of the gross estate under the heading "Mortgages and Liens." If the amount of the debt is disputed or the subject of litigation, deduct only the amount the estate concedes to be a valid claim. Enter the amount in contest in the column provided.

Generally, if the claim against the estate is based on a promise or agreement, the deduction is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth. However, any enforceable claim based on a promise or agreement of the decedent to make a contribution or gift (such as a pledge or a subscription) to or for the use of a charitable, public, religious, etc., organization is deductible to the extent that the deduction would be allowed as a bequest under the statute that applies.

Certain claims of a former spouse against the estate based on the relinquishment of marital rights are deductible on Schedule K. For these claims to be deductible, all of the following conditions must be met:

- The decedent and the decedent's spouse must have entered into a written agreement relative to their marital and property rights.

- The decedent and the spouse must have been divorced before the decedent's death and the divorce must have occurred within the 3-year period beginning on the date 1 year before the agreement was entered into. It is not required that the agreement be approved by the divorce decree.
- The property or interest transferred under the agreement must be transferred to the decedent's spouse in settlement of the spouse's marital rights.

You may not deduct a claim made against the estate by a remainderman relating to section 2044 property. Section 2044 property is described in the instructions to line 2 of Part 4, General Information.

Include in this schedule notes unsecured by mortgage or other lien and give full details, including name of payee, face and unpaid balance, date and term of note, interest rate, and date to which interest was paid before death. Include the exact nature of the claim as well as the name of the creditor. If the claim is for services performed over a period of time, state the period covered by the claim. Example: Puget Sound Energy Co., for electric service during February 2002, \$150.

If the amount of the claim is the unpaid balance due on a contract for the purchase of any property included in the gross estate, indicate the schedule and item number where you reported the property. If the claim represents a joint and separate liability, give full facts and explain the financial responsibility of the co-obligor.

**Property and income taxes.** The deduction for property taxes is limited to the taxes accrued before the date of the decedent's death. Federal taxes on income received during the decedent's lifetime are deductible, but taxes on income received after death are not deductible.

Keep all vouchers or original records for inspection by the Department of Revenue.

**Allowable death taxes.** If you elect to take a deduction under section 2063(d) rather than a credit under section 2011 or section 2014, the deduction is subject to the limitations described in section 2053(a) and its regulations.

### Mortgages and Liens

List under 'Mortgages and Liens' only obligations secured by mortgages or other liens on property that you included in the gross estate at its full value or at a

value that was undiminished by the amount of the mortgage or lien. If the debt is enforceable against other property of the estate not subject to the mortgage or lien, or if the decedent was personally liable for the debt, you must include the full value of the property subject to the mortgage or lien in the gross estate under the appropriate schedule and may deduct the mortgage or lien on the property on this schedule.

However, if the decedent's estate is not liable, include in the gross estate only the value of the equity of redemption (or the value of the property less the amount of the debt), and do not deduct any portion of the indebtedness on this schedule.

Notes and other obligations secured by the deposit of collateral, such as stocks, bonds, etc., also should be listed under 'Mortgages and Liens.'

### Description

Include under the 'Description' column the particular schedule and item number where the property subject to the mortgage or lien is reported in the gross estate.

Include the name and address of the mortgage payee, or obligee, and the date and term of the mortgage, note, or other agreement by which the debt was established. Also include the face amount, the unpaid balance, the rate of interest, and date to which the interest was paid before the decedent's death.

## Instructions for Schedule L Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims

You must complete Schedule L and file it with the return if you claim deductions on either item 18 or item 19 of Part 5, Recapitulation.

### Net Losses During Administration

You may deduct only those losses from thefts, fires, storms, shipwrecks, or other casualties that occurred during the settlement of the estate. You may deduct only the amount not reimbursed by insurance or otherwise.

Describe in detail the loss sustained and the cause. If you received insurance or other compensation for the loss, state the amount collected. Identify the property for which you are claiming the loss by indicating the particular schedule and item number where the property is included in the gross estate.

If you elect alternate valuation, do not deduct the amount by which you reduced the value of an item to include it in the gross estate.

Do not deduct losses claimed as a deduction on a Federal income tax return or depreciation in the value of securities or other property.

### Expenses Incurred in Administering Property Not Subject to Claims

You may deduct expenses incurred in administering property that is included in the gross estate but that is not subject to claims. You may only deduct these expenses if they were paid before the section 6501 period of limitations for assessment expired.

The expenses deductible on this schedule are usually expenses incurred in the administration of a trust established by the decedent before death. They may also be incurred in the collection of other assets or the transfer or clearance of title to other property included in the decedent's gross estate for estate tax purposes, but not included in the decedent's probate estate.

The expenses deductible on this schedule are limited to those that are the result of settling the decedent's interest in the property or of vesting good title to the property in the beneficiaries. Expenses incurred on behalf of the transferees (except those described above) are not deductible. Examples of deductible and nondeductible expenses are provided in Regulations section 20.2053-8.

List the names and addresses of the persons to whom each expense was payable and the nature of the expense. Identify the property for which the expense was incurred by indicating the schedule and item number where the property is included in the gross estate. If you do not know the exact amount of the expense, you may deduct an estimate, provided that the amount may be verified with reasonable certainty and will be paid before the period of limitations for assessment (referred to above) expires. Keep all vouchers and receipts for inspection by the Department of Revenue.

## Instructions for Schedule M Bequests, etc., to Surviving Spouse (Marital Deduction)

See the Form REV Form 85 0046 itself for these instructions.

## Instructions for Schedule 0 Charitable, Public, and Similar Gifts and Bequests

### General

You must complete Schedule 0 and file it with the return if you claim a deduction on item 21 of the Recapitulation.

You can claim the charitable deduction allowed under section 2055 for the value of property in the decedent's gross estate that was transferred by the decedent during life or by will to or for the use of any of the following:

- The United States, a state, a political subdivision of a state, or the District of Columbia, for exclusively public purposes;
- Any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or to foster national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment, unless the organization is a qualified amateur sports organization) and the prevention of cruelty to children and animals, as long as no part of the net earnings benefits any private individual and no substantial activity is undertaken to carry on propaganda, or otherwise attempt to influence legislation or participate in any political campaign on behalf of any candidate for public office;
- A trustee or a fraternal society, order or association operating under the lodge system, if the transferred property is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, and no substantial activity is undertaken to carry on propaganda or otherwise attempt to influence legislation, or participate in any political campaign on behalf of any candidate for public office;
- Any veterans organization incorporated by an Act of Congress or any of its departments, local chapters, or posts, for which none of the net earnings benefits any private individual; or
- A foreign government or its political subdivision when the use of such property is limited exclusively to charitable purposes.

For this purpose, certain Indian tribal governments are treated as states and transfers to them qualify as deductible charitable contributions. See Rev. Proc. 83-87, 1983-2 C.B. 606, as modified and supplemented by subsequent Internal Revenue Procedures, for a list of qualifying Indian tribal governments.

You may also claim a charitable contribution deduction for a qualifying conservation easement granted **after** the decedent's death under the provisions of section 2031 (c)(9).

The charitable deduction is allowed for amounts that are transferred to charitable organizations as a result of either a qualified disclaimer (see **Line 2, Qualified Disclaimer**, below) or the complete termination of a power to consume, invade, or appropriate property for the benefit of an individual. It does not matter whether termination occurs because of the death of the individual or in any other way. The termination must occur within the period of time (including extensions) for filing the decedent's estate tax return and before the power has been exercised.

The deduction is limited to the amount actually available for charitable uses. Therefore, if under the terms of a will or the provisions of local law, or for any other reason, the Federal estate tax, the Federal GST tax, or any other estate, GST, succession, legacy, or inheritance tax is payable in whole or in part out of any bequest, legacy, or devise that would otherwise be allowed as a charitable deduction, the amount you may deduct is the amount of the bequest, legacy, or devise reduced by the total amount of the taxes.

If you elected to make installment payments of the estate tax, and the interest is payable out of property transferred to charity, you must reduce the charitable deduction by an estimate of the maximum amount of interest that will be paid on the deferred tax.

For split-interest trusts (or pooled income funds) enter in the 'Amount' column the amount treated as passing to the charity. Do not enter the entire amount that passes to the trust (fund).

If you are deducting the value of the residue or a part of the residue passing to charity under the decedent's will, attach a copy of the computation showing how you determined the value, including any reduction for the taxes described above.

Also include:

1. A statement that shows the values of all specific and general legacies or devises for both charitable and

noncharitable uses. For each legacy or devise, indicate the paragraph or section of the decedent's will or codicil that applies. (If legacies are made to each member of a class (e.g., \$1,000 to each of the decedent's employees), show only the number of each class and the total value of property they received.)

2. The date of birth of all life tenants or annuitants, the length of whose lives may affect the value of the interest passing to charity under the decedent's will.
3. A statement showing the value of all property that is included in the decedent's gross estate but does not pass under the will, such as transfers, jointly owned property that passed to the survivor on decedent's death, and insurance payable to specific beneficiaries.
4. Any other important information such as that relating to any claim, not arising under the will, to any part of the estate (e.g., a spouse claiming dower or curtesy, or similar rights).

### Line 2-Qualified Disclaimer

The charitable deduction is allowed for amounts that are transferred to charitable organizations as a result of a qualified disclaimer. To be a qualified disclaimer, a refusal to accept an interest in property must meet the conditions of section 2518. These are explained in Regulations sections 25.2518-1 through 25.2518-3. If property passes to a charitable beneficiary as the result of a qualified disclaimer, check the "Yes" box on line 2 and attach a copy of the written disclaimer required by section 2518(b).

### Attachments

If the charitable transfer was made by will, attach a certified copy of the order admitting the will to probate, in addition to the copy of the will. If the charitable transfer was made by any other written instrument, attach a copy. If the instrument is of record, the copy should be certified; if not, the copy should be verified.

### Value

The valuation dates used in determining the value of the gross estate apply also on Schedule 0.

## Schedule T Qualified Family-Owned Business Interest Deduction

Under section 2057, you may elect to deduct the value of certain family-owned

business interests from the gross estate. You make the election by filing Schedule T, attaching all required statements, and deducting the value of the qualifying business interests on Part 5, Recapitulation, page 3, at item 22. You can only deduct the value of property that you have also reported on Schedule A, B, C, E, F, G, or H of Form REV 85 0046.

The amount of the deduction cannot exceed the lesser of:

- The adjusted value of the qualified family-owned business interests (QFOBI) of the decedent otherwise includible in the gross estate, or
- \$675,000.

**Coordination with unified credit.** The sum of the QFOBI deduction and the applicable exclusion amount cannot exceed \$1.3 million. Thus, if the maximum QFOBI deduction of \$675,000 is claimed, the applicable exclusion amount would be limited to \$625,000, and the credit entered on line 11 of Part 2 - Tax Computation, would be \$202,050.

If the amount of the QFOBI deduction is less than \$675,000, increase the applicable exclusion amount by the difference between \$675,000 and the amount of the QFOBI deduction (but not to exceed the maximum applicable exclusion amount in effect for the year of death).

For example, if the estate of a decedent dying in 1999 claimed a QFOBI deduction of \$665,000, the applicable exclusion amount for the estate would be \$635,000  $((\$675,000 - 665,000) + 625,000)$ . But if the QFOBI deduction was \$575,000, the applicable exclusion amount would be \$650,000, the maximum for 1999.

### General Requirements

Business interests may qualify for the exclusion if the following requirements are met:

- The decedent was a citizen or resident of the United States at the date of death.
- The business interests are includible in the gross estate.
- The interests must have passed to or been acquired by a qualified heir from the decedent. See page 20 for definition of a qualified heir.
- The adjusted value of the qualified family-owned business interests must exceed 50% of the adjusted gross estate (see below for a discussion of these terms).

- The interest must be in a trade or business that has its principal place of business in the United States.
- The business interest was owned by the decedent or a member of the decedent's family during 5 of the 8 years before the decedent's death.
- For 5 of the 8 years before the decedent's death, there was material participation by the decedent or a member of the decedent's family in the business to which the ownership interest relates.

### Qualified Family-Owned Business Interest

**In general.** To qualify for the deduction, the business interest must be either an interest as a proprietor in a trade or business carried on as a proprietorship, or an interest in an entity carrying on a trade or business in which:

- At least 50% of the entity is owned by the decedent or members of the decedent's family;
- At least 70% of the entity is owned by members of two families, and at least 30% is owned by the decedent or members of the decedent's family; or
- At least 90% of the entity is owned by members of three families, and at least 30% is owned by the decedent or members of the decedent's family.

In all cases, ownership may be either direct or indirect.

**Ownership rules.** Ownership of the business interest may either be direct, or indirect through a corporation, partnership, or a trust. An interest owned, directly or indirectly, by or for such an entity is considered owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person is the beneficiary of a trust only if he or she has a present interest in the trust.

**Corporations.** Ownership of a corporation is determined by holding stock that has the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

**Partnerships.** Ownership of a partnership is based on owning the appropriate percentage of the capital interest in the partnership.

**Tiered entities.** For the purpose of determining ownership of a business under section 2057, if the decedent, a member of the decedent's family, any qualified heir, or any member of the

qualified heirs family owns an interest in a business, and by reason of that ownership the person is treated as owning an interest in any other business, the ownership interest in the other business is disregarded in determining the ownership interest in the first business. Likewise, you must apply the ownership rules separately in determining ownership of the other business.

### Limitations

"Qualified family-owned business interests" shall **not** include the following:

- Any interest in a trade or business if its principal place of business is located outside the United States.
- Any interest in an entity if the stock or debt of the entity (or a controlled group of which the entity is a member) was readily tradable on an established securities market or secondary market at any time within 3 years of the date of the decedent's death.
- Any interest in a trade or business (excluding banks and domestic building and loan associations) if more than 35% of its adjusted ordinary gross income for the taxable year that includes the date of the decedent's death would qualify as personal holding company income (as defined in section 2057(e)(2)(C)) if such trade or business was a corporation.
- The portion of an interest in a trade or business that is attributable to:
  1. Cash and/or marketable securities in excess of the reasonably expected day-to-day working capital needs, and
  2. Any other assets (other than assets held in the active conduct of a bank or domestic building and loan) that produce or are held for the production of personal holding company income and most types of foreign personal holding company income. See section 2057(e)(2)(D) for more information.

**Net cash lease.** If the decedent leased property on a net cash basis to a member of the decedent's family, income from the lease is not considered personal holding company income for this purpose, and the property is not considered asset producing or held for the production of personal holding company income. However, if the income or property would have been personal holding company

income or property if the decedent had engaged directly in the activities of the lessee, then this net cash lease rule does not apply.

### Qualified Heir

A person is a qualified heir of property if he or she is a member of the decedent's family and acquired or received the interest from the decedent.

If a qualified heir disposes of any qualified family-owned business interest to any member of his or her family, that person will then be treated as the qualified heir with respect to that interest.

The term **member of the family** includes only:

- An ancestor (parent, grandparent, etc.) of the individual;
- The spouse of the individual;
- The lineal descendent (child, stepchild, grandchild, etc.) of the individual, the individual's spouse, or a parent of the individual; and
- The spouse, widow, or widower of any lineal descendent described above.

A legally adopted child of an individual is treated as a child of that individual by blood.

For the purpose of this deduction, qualified heir also includes any active employee of the trade or business to which the qualified family-owned business interest relates if the employee has been employed by the trade or business for a period of at least 10 years before the date of the decedent's death.

### Interests Acquired From the Decedent

An interest in a business is considered to have been acquired from or to have passed from the decedent if one or more of the following apply:

- The interest is considered to have been acquired from or to have passed from the decedent under section 1014(b) (relating to basis of property acquired from a decedent).
- The interest is acquired by any person from the estate.
- The interest is acquired by any person from a trust, to the extent the property is includible in the gross estate.

### Material Participation

To make the section 2057 election, either the decedent or a member of the

decedent's family must have materially participated in the trade or business to which the ownership interest relates for at least 5 of the 8 years ending on the date of the decedent's death.

The existence of material participation is a factual determination, and the types of activities and financial risks that will support a finding of material participation will vary with the mode of ownership. No single factor is determinative of the presence of material participation, but physical work and participation in management decisions are the principal factors to be considered. Passively collecting rents, salaries, draws, dividends, or other income from the trade or business does not constitute material participation. Neither does merely advancing capital and reviewing business plans and financial reports each business year.

For more information on material participation, see page 7 of these instructions and Regulations section 20.2032A-3.

### Specific Instructions for Schedule T

#### Line 4

If any qualified heir is not a U.S. citizen, the ownership interest he or she receives must pass, be acquired, or be held in a qualified trust. See section 2057(g) for details. If any qualified heir listed on line 4 is not a U.S. citizen, indicate along with their address "citizen of \_\_\_\_\_," filling in the appropriate country.

#### Line 5

List on line 5 **all** qualified family-owned business interests included in the gross estate, even if they will not be included in the deduction because, for example, they pass to the surviving spouse and are deducted on Schedule M rather than Schedule T (see the instructions for line 15 below).

#### Line 7

Enter on line 7 the amount, if any, deductible from the gross estate as claims against the estate or indebtedness of the estate reported elsewhere on this Form REV 85 0046. Do not include funeral or administrative expenses on this line.

#### Line 8a

Enter the amount of any indebtedness that is both:

- Included on line 7, and
- Indebtedness on a residence of the decedent that qualifies for the

mortgage interest deduction under section 163(h)(3).

#### Line 8b

Enter the amount of any indebtedness:

- That is included on line 7, and
- The proceeds of which were used to pay educational or medical expenses of the decedent, the decedent's spouse, or the decedent's dependents.

#### Line 8c

Enter the amount of any other indebtedness included on line 7 but not on lines 8a or 8b, but **DO NOT** enter more than \$10,000.

#### Line 11a

Enter on this line the amount of gifts, if any, that were:

- Included on line 4 of Part 2, page 1, Form REV 85 0046;
- Of qualified family-owned business interests;
- From the decedent to members of the decedent's family **other than** the decedent's spouse; and
- Continuously held by such members of the decedent's family from the date of the gift to the date of the decedent's death.

#### Line 11b

Enter the amount, if any, of gifts that would have been included on line 11a except that they were excluded under the gift tax annual exclusion of section 2503(b).

#### Line 13a

Enter the amount from item 12, Part 5, Recapitulation.

#### Line 13e

Enter any amounts (other than qualified family-owned business interests and de minimis amounts) transferred from the decedent to the decedent's spouse (determined at the time of the transfer) and within 10 years of the date of the decedent's death.

#### Line 13f

Enter the amount of any other gifts:

- That are not included on lines 13d or 13e;
- That were from the decedent;
- That were made within 3 years of the date of the decedent's death; and

- That were **not** both gifts to members of the decedent's family and excluded under the annual gift tax exclusion of section 2503(b).

### Line 13h

Enter the amounts, if any, from lines 13d, 13e, or 13f, that are otherwise included in the gross estate (e.g., under section 2035).

### Line 15

The interests listed on line 5 above are used to qualify the estate for the section 2057 deduction. You may choose, however, not to deduct on Schedule T all of the trade or business interests that are listed on line 5. For example, if a trade or business interest that is a qualified family-owned business interest passes to the surviving spouse and you choose to deduct it on Schedule M, you may **not** deduct on Schedule T the part of its value deducted on Schedule M. Or, you may simply choose not to include a particular trade or business interest in the section 2057 election.

Report on line 15 only the value of those trade or business interests listed on line 5 for which you are making the section 2057 election.

Also, you must reduce the amount of the Schedule T deduction by the amount of any Federal estate or GST tax and any state inheritance taxes paid out of, and any other deductions claimed with respect to, the interests that you elect to deduct on Schedule T.

Attach a schedule showing the following:

- Identify each trade or business interest from line 5 for which you are making the section 2057 election and the amount being deducted.
- Specify the amount, if any, of the interests for which you are making the election that is deducted on Schedule M.
- List for each trade or business interest the type and amount of any taxes paid out of that interest.
- List for each trade or business interest the type and amount of any other deductions claimed with respect to that interest.

If there are no such reductions, enter the amount from line 10 on line 15.

## Schedule U Conservation Easement Exclusion

Under section 2031(c), you may elect to exclude a portion of the value of land that

is subject to a qualified conservation easement. You make the election by filing Schedule U with all of the required information and excluding the applicable value of the land that is subject to the easement on Part 5, Recapitulation, page 3, at item 11. To elect the exclusion, you must include on Schedule A, B, E, F, G, or H, as appropriate, the decedent's interest in the land that is subject to the exclusion. You must make the election on a timely filed Form REV 85 0046, including extensions.

For the estates of decedents dying in 1999, the exclusion is the lesser of:

- The applicable percentage of the value of land (after certain reductions) subject to a qualified conservation easement, or
- \$200,000.

Once made, the election is irrevocable.

**Note:** See the **Exclusion limitation table** on this page for exclusion amounts after 1999.

### General Requirements

#### Qualified Land

Land may qualify for the exclusion if all of the following requirements are met:

- The decedent or a member of the decedent's family must have owned the land for the 3-year period ending on the date of the decedent's death.
- No later than the date the election is made, a qualified conservation easement on the land has been made by the decedent, a member of the decedent's family, the executor of the decedent's estate, or the trustee of a trust that holds the land.
- The land is located:
  1. In or within 25 miles of an area that, on the date of the decedent's death, is a metropolitan area, as defined by the Office of Management and Budget;
  2. In or within 25 miles of an area that, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it has been determined that such land is not under significant development pressure); or
  3. In or within 10 miles of an area that, on the date of the

decedent's death, is an Urban National Forest, as designated by the Forest Service.

#### Member of Family

Members of the decedent's family include the decedent's spouse; ancestors; lineal descendants of the decedent, of the decedent's spouse, and of the parents of the decedent; and the spouse of any lineal descendant. A legally adopted child of an individual is considered a child of the individual by blood.

#### Indirect Ownership of Land

The qualified conservation easement exclusion applies if the land is owned indirectly through a partnership, corporation, or trust, if the decedent owned (directly or indirectly) at least 30% of the entity. For the rules on determining ownership of an entity, see the Schedule T instructions under the main heading, **Qualified Family-Owned Business Interest**.

#### Qualified Conservation Easement

A qualified conservation easement is one that would qualify as a qualified conservation contribution under section 170(h). It must be a contribution:

- Of a qualified real property interest;
- To a qualified organization; and
- Exclusively for conservation purposes.

**Exclusion limitation.** The conservation easement exclusion limitation is determined using the following table:

For the estates of decedents dying during:	The exclusion limitation is:
1999	\$200,000
2000	300,000
2001	400,000
2002 or thereafter	500,000

**Qualified real property interest.** The term qualified real property interest means any of the following:

- The entire interest of the donor, other than a qualified mineral interest;
- A remainder interest; or
- A restriction granted in perpetuity on the use that may be made of the real property. The restriction must include a prohibition on more than a de minimis use for commercial recreational activity.

**Qualified organization.** Qualified organizations include:

- The United States, a possession of the United States, a state (or the District of Columbia), or a political subdivision of them, as long as the gift is for exclusively public purposes.
- A domestic entity that meets the general requirements for qualifying as a charity under section 170(c)(2) and that generally receives a substantial amount of its support from a government unit or from the general public.
- Any entity that qualifies under section 170(h)(3)(B).

**Conservation purpose.** The term conservation purpose means:

- The preservation of land areas for outdoor recreation by, or the education of, the public;
- The protection of a relatively natural habitat of fish, wildlife, or plants, or a similar ecosystem; or
- The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated Federal, state, or local conservation policy and will yield a significant public benefit.

### Specific Instructions

#### Line 1

If the land is reported as one or more item numbers on a Form REV 85 0046 schedule, simply list the schedule and item numbers. If the land subject to the easement comprises only part of an item, however, list the schedule and item number and describe the part subject to the easement. See the instructions for Schedule A, Real Estate, in the Form REV 85 0046 itself, for information on how to describe the land.

#### Line 4

Using the general rules for describing real estate, provide enough information so the Department of Revenue can value the easement. Give the date the easement was granted and by whom it was granted.

#### Line 5

Enter on this line the gross value at which the land was reported on the applicable asset schedule on this Form REV 85 0046. Do not reduce the value by the amount of any mortgage outstanding. Report the estate tax value even if the easement was granted by the decedent (or someone other than the decedent) prior to the decedent's death.

#### Line 6

The amount on line 6 should be the date of death value of any qualifying conservation easements granted prior to the decedent's death, whether granted by the decedent or someone other than the decedent, for which the exclusion is being elected.

#### Line 8

You must reduce the land value by the value of any development rights retained by the donor in the conveyance of the easement. A development right is any right to use the land for any commercial purpose that is not subordinate to and directly supportive of the use of the land as a farm for farming purposes.

You do not have to make this reduction if everyone with an interest in the land (regardless of whether in possession) agrees to permanently extinguish the retained development right. The agreement must be filed with this return and must include the following information and terms:

1. A statement that the agreement is made pursuant to IRC section 2031(c)(5).
2. A list of all persons in being holding an interest in the land that is subject to the qualified conservation easement. Include each person's name, address, tax identifying number, relationship to the decedent, and a description of their interest.
3. The items of real property shown on the estate tax return that are subject to the qualified conservation easement (identified by schedule and item number).
4. A description of the retained development right that is to be extinguished.
5. A clear statement of consent that is binding on all parties under applicable local law:
  - a. To take whatever action is necessary to permanently extinguish the retained development rights listed in the agreement; and
  - b. To be personally liable for additional taxes under IRC section 2031(c)(5)(C) if this agreement is not implemented by the earlier of:
    - The date that is 2 years after the date of the decedent's death, or

- The date of sale of the land subject to the qualified conservation easement.

6. A statement that in the event this agreement is not timely implemented, that they will report the additional tax on whatever return is required by the Department of Revenue and will file the return and pay the additional tax by the last day of the 6th month following the applicable date described above.

All parties to the agreement must sign the agreement.

For an example of an agreement containing some of the same terms, see Schedule A-1 (Form REV 85 0046).

#### Line 11

Enter the total value of the qualified conservation easements on which the exclusion is based. This could include easements granted by the decedent (or someone other than the decedent) prior to the decedent's death, easements granted by the decedent that take effect at death, easements granted by the executor after the decedent's death, or some combination of these.

**Important:** *Use the value of the easement as of the date of death, even if the easement was granted prior to the date of death.*

Explain how this value was determined and attach copies of any appraisals. Normally, the appropriate way to value a conservation easement is to determine the FMV of the land both before and after the granting of the easement, with the difference being the value of the easement.

You must reduce the reported value of the easement by the amount of any consideration received for the easement. If the date of death value of the easement is different from the value at the time the consideration was received, you must reduce the value of the easement by the same proportion that the consideration received bears to the value of the easement at the time it was granted. For example, assume the value of the easement at the time it was granted was \$100,000 and \$10,000 was received in consideration for the easement. If the easement was worth \$150,000 at the date of death, you must reduce the value of the easement by \$15,000 (\$10,000/\$100,000 x \$150,000) and report the value of the easement on line 11 as \$135,000.

**Line 16**

If a charitable contribution deduction for this land has been taken on Schedule O, enter the amount of the deduction here. If the easement was granted after the decedent's death, a contribution deduction may be taken on Schedule O, if it otherwise qualifies, as long as no income tax deduction was or will be claimed for the contribution by any person or entity.

**Line 17**

You must reduce the value of the land by the amount of any acquisition indebtedness on the land at the date of the decedent's death. Acquisition indebtedness includes the unpaid amount of:

- Any indebtedness incurred by the donor in acquiring the property;
  - Any indebtedness incurred before the acquisition if the indebtedness would not have been incurred but for the acquisition;
  - Any indebtedness incurred after the acquisition if the indebtedness would not have been incurred but for the acquisition and the incurrence of the indebtedness was reasonably foreseeable at the time of the acquisition; and
  - The extension, renewal, or refinancing of acquisition indebtedness.
- 

**Continuation Schedule**

See instructions for the Continuation Schedule on Form REV 85 0046 itself.



## Index

### A

Address, executor.....	1
Alternate valuation.....	5
Amending Form REV 85 0046.....	2
Annuities.....	15
Applicable credit amount.....	4
Applicable exclusion amount.....	4

### B

Bequests .....	10
Bonds .....	12

### C

Closely held corporations .....	9
Conservation easement.....	2
Continuation Schedule (See Continuation Schedule on Form REV 85 0046.....)	24

### D

Death certificate.....	2
Debts of the decedent .....	17
Debts, mortgages and liens .....	17
Deductions .....	17
Disclaimer, qualified .....	19
Documents, supplemental .....	2

### E

Elections .....	5
Election, lump sum distribution .....	17
Executor .....	2
Expenses, losses.....	18

### F

Filing Threshold .....	1
Forms and publications, obtaining.....	2

### G

General Instructions .....	1
Gifts and bequests.....	3, 12
Gross estate .....	1

### I

Installment payments.....	9
Insurance.....	12
Interests, reversionary or remainder.....	9

### L

Liens.....	17
Losses, expenses.....	18
Lump sum distribution election .....	17

### M

Marital deduction computation, transitional .....	18
Material participation .....	7
Member of family.....	22
Mortgages and liens .....	17

### N

Nonresident noncitizens .....	1
-------------------------------	---

### P

Part 1, Decedent and Executor .....	3
-------------------------------------	---

Part 2, Tax Computation.....	3
Part 3, Elections .....	5
Part 4, General Information .....	10
Part 5, Recapitulation .....	10
Part 6, Apportionment, WA Resident .....	11
Part 7, Apportionment, Nonresident .....	11
Part 8, Generation skipping tax .....	11
Paying the tax.....	2
Payments, installment .....	2
Penalties.....	2
Powers of appointment.....	14
Private delivery services.....	2
Property, section 2044.....	10
Publications, obtaining.....	2
Purpose of Form.....	1

### Q

Qualified conservation easement exclusion.....	11, 22
Qualified family-owned business interest deduction (QFOB).....	20
Qualified heir .....	7
Qualified real property .....	6

### R

Real property interest, qualified .....	6
Real property, qualified.....	6
Recapitulation.....	10
Residents of U.S. Possessions.....	1
Rounding off to whole dollars .....	2

### S

Schedule A Real Estate (See reverse of Sch A on Form REV 85 0046 ..)	11
Schedule A-1 Section 2032A Valuation (See Sch A-1 on Form REV 85 0046) .....	11
Schedule B Stocks and Bonds .....	11
Schedule C Mortgages, notes and cash (See reverse side of Sch C on Form REV 85 0046).....	12
Schedule D Insurance (See reverse side of Sch D on Form REV 85 0046) .....	12
Schedule E Jointly owned property (See reverse side of Sch F on Form REV 85 0046).....	12
Schedule F Other miscellaneous property (See reverse side of Sch F on Form REV 85 0046) .....	12
Schedule G Transfers during decedent's life.....	12
Schedule G, how to complete.....	12
Schedule H Powers of appointment .....	14
Schedule I Annuities.....	15
Schedule I, how to complete.....	15
Schedule J Expenses (See reverse side of Sch J on Form REV 85 0046) .....	17
Schedule K Debts.....	17
Schedule L Losses, expenses during administration .....	18
Schedule M Marital deduction (See instructions in the Form REV 85 0046 itself).....	18
Schedule O Gifts and bequests.....	19
Schedule T Qualified family-owned business interest deduction .....	19

Schedule U Qualified conservation easement exclusion .....	22
Section 2032A .....	6-8, 11, 21
Section 2035 transfers.....	4, 12-14, 22
Section 2035(a) transfers .....	13, 14
Section 2035(b) transfers .....	13
Section 2036 transfers.....	13, 14
Section 2037 transfers.....	13, 14
Section 2038 transfers.....	12-14
Signature and verification .....	2
Social security number .....	1
Special use valuation of Section 2032A .....	6-8, 11, 21
Specific Instructions.....	3
Stocks.....	10-12, 18

### T

Table A, Unified Rate Schedule.....	4
Table B, Maximum State Death Tax .....	5
Tax Computation .....	3-5, 20
Taxes, foreign death .....	11
Transfers, valuation rules .....	7, 12, 14
Trusts.....	9, 10, 19

### U

U.S. Citizens or Residents.....	1
Unified Credit (applicable credit amount) .....	4-5
Unified credit adjustment .....	5

### V

Valuation methods.....	7
Valuation rules, transfers.....	7, 12, 14

### W

When To File .....	2
Where To File .....	2
Which Estates Must File .....	1
Worksheet TG-Taxable Gifts Reconciliation .....	3